

2 IN THE MATTER OF:)
PROPOSED ISSUANCE OF A CAAPP)
3 PERMIT FOR MIDWEST GENERATION'S)
JOLIET AND WILL COUNTY)
4 GENERATION STATIONS)

5

6

7

8 REPORT OF PROCEEDINGS taken at the hearing
9 of the above-entitled matter, held at 150 North Ottawa
10 Street, Joliet, Illinois, before Hearing Officer Charles
11 Matoesian, reported by Janice H. Heinemann, CSR, RDR, CRR,
12 a notary public within and for the County of DuPage and
13 State of Illinois, on the 25th day of August, 2003,
14 commencing at the hour of 6 p.m.

15

IEPA APPEARANCES:

16 MR. CHARLES MATOESIAN, IEPA Acting Hearing
17 Officer;
18 MR. CHRISTOPHER ROMAINE, BOA, Permit Section,
19 Utilities Unit Manager;
20 MR. JOHN CASHMAN, BOA, Permit Section, Permit
21 Reviewer;
22 MR. ROSS COOPER, BOA, Permit Section, Permit
23 Reviewer;
MR. BRAD FROST, Office of Community
Relations.

24

1	I N D E X	
2	PROCEEDINGS	PAGES
3	Hearing Officer's Opening Statement	3 - 5
4	BOA presentation by Mr. Romaine	5 - 13
5	BOA presentation by Mr. Cashman	13 - 15
6	Company presentation by Mr. Parnell	15 - 17
7	Questions/comments from public	18 - 107
8	Hearing Officer's Closure of Hearing	107
9		
10	EXHIBITS	
11	Exhibit No. 1	86
12	(Title V - CAAPP permit - Joliet)	
13	Exhibit No. 2	86
14	(Title V - CAAPP permit - Will)	
15	Exhibit No. 3	86
16	(Chicago Legal Clinic - FOIA request -8/14/03)	
17	Exhibit No. 4	86
18	(Chicago Legal Clinic - FOIA request -8/14/03)	
19		
20		
21		
22		
23		
24		

1 HEARING OFFICER MATOESIAN: Good evening, ladies
2 and gentlemen. This hearing is being held by the Illinois
3 Environmental Protection Agency, the Bureau of Air, to
4 consider a Clean Air Act Program Permit for Midwest
5 Generation of Joliet and Will County plants.

6 Midwest Generation is located at 440 South
7 LaSalle Street, Suite 4500, in Chicago, has requested a
8 Clean Air Act Permit Program or CAAPP permit from the
9 Illinois EPA for its Joliet and Will County coal-fired
10 power plants. The Joliet power plant is located at
11 1800 Channahon Road in Joliet and has three coal-fired
12 boilers, four oil-fired peakers, eight natural gas- or
13 oil-fired turbines, and other related emission units.
14 Will County power plant is located at 529 East 135th
15 Street in Romeoville and has four coal-fired boilers and
16 other related emission units.

17 The CAAPP is Illinois' operating permit
18 program for major sources of emissions, as required by
19 Title V of the Clean Air Act. The conditions of CAAPP
20 permits are enforceable by the public, as well as by the
21 United States Environmental Protection Agency, and
22 Illinois. CAAPP permits may contain new and revised
23 conditions set under the permit program for new and
24 modified emission units pursuant to Title I of the Federal

1 Clean Air Act, thereby making them combined Title V and
2 Title I permits.

3 The purpose of this hearing is to receive
4 comments and data and to answer questions from the public
5 prior to making a final decision concerning these two
6 applications. Lengthy comments and questions should be
7 submitted to the Illinois EPA in writing. Written
8 comments must be postmarked by midnight, September 28,
9 2003. Comments need not be notarized and should be sent
10 to myself, Charles Matoesian. That's M-a-t-o-e-s-i-a-n,
11 Illinois EPA Hearing Officer, regarding the Joliet and
12 Will County CAAPP. Address is 1021 North Grand Avenue
13 East, PO Box 19276, Springfield, Illinois, 62794-9276.

14 Finally, this hearing is being held under
15 the provisions of Subpart A of the Illinois EPA's
16 "Procedures for Permit and Closure Plans" regulations,
17 found at 35 Illinois Administrative Code, section 166.

18 On behalf of Renee Cipriano, the Director
19 of the Illinois Environmental Protection Agency, the
20 Agency itself, and myself, I thank you all for coming.
21 And we will begin now with a presentation by Mr. Chris
22 Romaine. However, I do want to make an announcement. We
23 must end this hearing at 8:45 p.m. because the library is
24 closing. Accordingly, I'm going to have to limit any

1 lengthy comments at least for a first round to make sure
2 everyone gets a chance to speak.

3 So without further ado, Mr. Romaine.

4 MR. ROMAINE: Good evening. Thank you for
5 coming again. I'm going to give you some general
6 background for tonight's hearing. However, first I want
7 to stress that we are here to discuss operating permits.
8 As operating permits, these permits would not address or
9 authorize construction of new generating units at the
10 plants. These operating permits would be issued pursuant
11 to Title V of the federal Clean Air Act, which created a
12 federal operating permit program for major sources with
13 emissions. Nationally this program is known as a Title V
14 permit program. In Illinois, this program is known as the
15 Clean Air Act Permit Program. The acronym for the program
16 is C-A-A-P-P, and it is actually pronounced cap. The
17 terms CAAPP and Title V are synonymous in Illinois, and we
18 often use these terms interchangeably when referring to
19 these permits.

20 I want to share with you what the United
21 States EPA says about Title V permits: "The purpose of
22 Title V permits is to reduce violations of air pollution
23 laws and improve enforcement of those laws."

24 Title V of the Clean Air Act achieves its

1 objectives first by requiring that each major source is
2 covered by a single permit that addresses all the emission
3 units and activities at the source. Before Title V, a
4 major source in Illinois could have several operating
5 permits, each one addressing different operations at the
6 source.

7 Second, Clean Air Act permits must be
8 comprehensive, addressing all applicable air pollution
9 control requirements. This will improve the awareness and
10 understanding of the emission standards that apply to a
11 source and the various compliance procedures associated
12 with these standards that the source must carry out.
13 Given the complexity of the state and federal requirements
14 for air pollution control, it is widely recognized that a
15 comprehensive permit will facilitate compliance by a major
16 source, as that permit summarizes and acts as a guide to
17 the various requirements that apply to the source. This
18 is certainly very important for the general public, who
19 may be unfamiliar to the rules that apply to the source.
20 A comprehensive permit is certainly important for the
21 various management and operating personnel at a source, so
22 that obligations are understood and nothing is neglected
23 or overlooked. And then a comprehensive permit is also
24 very important to the staff at the Illinois EPA as it

1 facilitates a thorough and consistent approach in the
2 various activities that we undertake to verify and track
3 compliance.

4 Third, Clean Air Act permits add to
5 compliance checks put on a source, thereby providing
6 additional protections of air quality. As such, the
7 public should generally endorse the issuance of these
8 permits, especially for sources with which they have
9 concerns about emissions. Quite simply, air quality is
10 better protected if a major source is covered by a Clean
11 Air Act permit.

12 One compliance benefit of the Clean Air Act
13 permit is gap filling. Clean Air Act permits can fill in
14 gaps in the recordkeeping and other compliance procedures
15 contained in existing rules, requiring sources to carry
16 out additional procedures to show compliance. This is
17 particularly important for some of the older air pollution
18 control rules where emission control requirements were
19 adopted but the rulemaking did not address or specify any
20 associated compliance procedures.

21 The other major compliance benefit of a
22 Clean Air Act permit is additional reports by a source
23 related to compliance. Effectively, Clean Air Act permits
24 make the sources publicly accountable for their compliance

1 status. This is first accomplished by requiring a source
2 to promptly report all deviations from applicable
3 requirements. Depending on the nature and significance of
4 the deviation, reporting may be required immediately,
5 within 30 days, or in a regular, quarterly, or semi-annual
6 compliance report. Second, sources are held directly
7 accountable for their compliance status because on an
8 annual basis they must submit a compliance certification.
9 This requires a source to review its compliance status
10 during the previous year and formally report its findings
11 including a determination whether each emission unit was
12 in full compliance, intermittent compliance, or
13 noncompliance during the previous year.

14 Accordingly, issuance of Clean Air Act
15 permits to these power plants is a good thing. The
16 permits will help assure that these plants fully comply
17 with the existing limits and other regulatory requirements
18 that restrict their emissions. Permits will do this by
19 summarizing emission control requirements in a single,
20 comprehensive permit clarifying provisions of certain
21 rules, filling certain gaps in the compliance procedures,
22 and requiring additional reporting related to compliance.
23 We are certainly very interested in any suggestions that
24 you have to improve the permits in this regard. However,

1 it should be understood that coal-fired power plants like
2 these plants are already some of the most closely
3 monitored sources in the state, with continuous emission
4 monitors already in place for sulfur dioxide, nitrogen
5 oxides, and opacity.

6 Now, the Clean Air Act permits, however,
7 for these power plants are not a means to generally set
8 new requirements to control emissions from these sources.
9 The Illinois EPA does not have broad legal authority in
10 Clean Air Act permits to establish new requirements to
11 further control emissions from existing sources. Instead,
12 the development of control requirements for existing
13 sources like these power plants generally occurs with the
14 adoption of new laws and rules. This assures that all
15 sources in a particular category are considered and
16 treated fairly and that overall environmental goals are
17 efficiently achieved. For coal-fired power plants, this
18 big picture approach is very important. This is because
19 an individual power plant generally has a small effect on
20 the air quality in the immediate surroundings where it is
21 located given the emission control requirements that
22 currently apply to coal-fired power plants.
23 However, the effect of a single plant extends over a large
24 area so that power plants as a group do contribute

1 significantly to backgrounds levels of pollution
2 throughout the state. In other words, to effectively
3 further reduce the impacts of coal-fired power plants and
4 air quality, many power plants must be further controlled,
5 ideally on a regional or national basis.

6 This is what has occurred in the past and what should
7 continue to occur for coal-fired power plants in Illinois
8 separate from the Clean Air Act permits proposed for these
9 particular power plants.

10 Historically, in 1995, the national Acid
11 Rain Program began requiring reductions in annual
12 emissions of sulfur dioxide and nitrogen oxides for
13 coal-fired power plants. In May of this year, a state-
14 based rule became effective in Illinois requiring
15 electrical generating units to reduce emissions of
16 nitrogen oxides during a five-month long summer ozone
17 season. This rule will reduce total nitrogen oxide
18 emissions from affected units by about half. Next year,
19 in 2004, the Regional Trading Program for nitrogen oxides
20 will begin requiring further reductions in nitrogen oxides
21 emissions at power plants during summer months from over
22 20 eastern states including Illinois. These regulatory
23 programs have and will substantially reduce the emissions
24 of two key pollutants emitted from existing coal-fired

1 power plants.

2 Additional reductions beyond these adopted
3 rules are also planned. At the national level,
4 President Bush, with support from the United States EPA,
5 is recommending that Congress adopt a law called "Clear
6 Skies" to further reduce emissions from sulfur dioxide and
7 nitrogen oxides from coal-fired power plants and also to
8 begin control of emissions of mercury on a national basis.
9 The future levels of power plant emissions under the
10 "Clear Skies" program, and the form and schedule for the
11 reduction of emissions are subjects that are currently
12 being debated at the national level. At the state level,
13 the Illinois legislature has already adopted the law
14 requiring the Illinois EPA to evaluate further emission
15 controls for power plants in Illinois. The Illinois EPA
16 must submit its report back to the legislature by
17 September 30, 2004, and may then proceed to propose rules
18 for further control of the emissions consistent with its
19 findings. As with the national proposal for "Clear Skies"
20 program, the Illinois EPA expects its report and
21 subsequent rulemaking to be the subject of much public
22 debate.

23 In any event, when the next new program is
24 adopted to control emissions from existing power plants,

1 the Clean Air Act permits will again be one of the tools
2 that is used to assure that these sources comply with the
3 newly adopted requirements.

4 On another point, as I know you are all
5 aware, coal-fired power plants are not the only source of
6 emissions. In particular, cars, trucks, and buses still
7 represent the largest source sector for emissions of
8 nitrogen oxides. Manufacturing plants also contribute
9 significantly to air quality. Regulatory programs are in
10 place and continue to be developed to reduce the emissions
11 from sources other than power plants. These emission
12 reductions also contribute to steady year-by-year
13 improvements in air quality in Illinois especially in
14 urban areas like Chicago.

15 A final topic. With respect to tonight's
16 hearing, we are here to provide you with information.
17 More importantly, we are here to listen to your comments
18 and concerns. Your comments can and often do affect the
19 contents of permits, so please make your concerns known to
20 us. Following consideration of your comments, we will
21 prepare revised permits known as proposed permits which
22 will be sent to USEPA for its review. It is very
23 important that you state your concerns either at this
24 hearing or in written comments so that, as possible, and

1 legally allowed, we can address them in the proposed
2 permits. When USEPA reviews the proposed permits, USEPA
3 will also be interested in seeing your comments and how we
4 address them. This is only possible if you state any
5 concerns that you have either here tonight on the hearing
6 record or, alternatively, send the comments to us in
7 writing prior to close of the comment period.
8 This is also necessary to establish your rights should you
9 eventually wish to object to the permits issued to these
10 plants.

11 That concludes my introductory remarks. I
12 would now like to turn the microphone over to John Cashman
13 to provide a brief description of these power plants.

14 MR. CASHMAN: Good evening, ladies and
15 gentlemen. My name is a John Cashman. Ross Cooper and I
16 are engineers in the Illinois EPA air permit section. Our
17 duties include reviewing air permit applications for
18 various types of stationary sources. And we review the
19 applications for the Clean Air Act Program Permit permits
20 that are the subject of tonight's hearing.

21 I would like to thank you all for coming to
22 here to express your interest in the draft permits that we
23 have prepared for Midwest Generation's Joliet and Will
24 County Generation Stations.

1 These plants are existing power generating
2 plants. The principal emission units at the plants are
3 the coal-fired boilers. Joliet has three coal-fired
4 boilers and Will County has four coal-fired boilers.

5 Emissions from the coal-fired boilers are
6 controlled by a combination of the operating practices,
7 boiler features, and add-on control equipment.
8 Particulate matter emissions from all the boilers are
9 controlled by add-on electrostatic precipitators that use
10 electrical attraction to remove dust from the exhaust.
11 The plants comply with requirements for sulfur dioxide
12 emissions by burning low-sulfur coal. Nitrogen oxide
13 emissions are minimized by the burner system in the
14 boilers.

15 For plants that require a Clean Air Act
16 Permit because they are a major source of emissions, the
17 Clean Air Act permit specifies both applicable state and
18 federal regulations that apply to the plant including
19 emission limitations, monitoring requirements, and
20 recordkeeping and reporting requirements. These include
21 requirements for the new Regional Trading Program that
22 becomes effective in 2004.

23 One of the key requirements applying to
24 these plants is that Midwest Generation's stations must

1 obtain and maintain continuous emission monitors to
2 measure the nitrogen oxide and sulfur dioxide emissions of
3 the coal-fired boilers and opacity from the stack.
4 Midwest Generation must operate these systems in
5 accordance with the protocol under the federal Acid Rain
6 Program. These monitors provide very reliable information
7 to verify compliance that control requirements for
8 emissions.

9 In closing, I welcome your questions and
10 comments.

11 HEARING OFFICER MATOESIAN: Thank you,
12 gentlemen.

13 Next we will proceed by the presentation
14 from Mr. Parnell from Midwest Generation.

15 MR. PARNELL: Good evening. My name is Charlie
16 Parnell. First and foremost, the very public Title V
17 process demonstrates how strictly our power plants are
18 regulated. There are about 900 different regulatory
19 requirements in a typical Midwest Generation Title V
20 permit. The public has legitimate concerns about air
21 pollution and the Title V process should assure that
22 regulators and citizens alike are able to closely monitor
23 our operations.

24 Midwest Generation operates our plants in

1 compliance with all regulatory requirements. Those
2 regulations have gotten tougher over the past 30 years.
3 They got tougher this year, and they will get tougher next
4 year.

5 The federal EPA is working toward adopting
6 the first-ever regulations on mercury emissions from power
7 plants. This should take effect within the next few
8 years. The fact is our plants are cleaner and safer than
9 at any time in their history, and they will continue to
10 get cleaner over the years. Since acquiring seven power
11 plants here in Illinois, we have invested well over \$200
12 million to reduce air emissions.

13 We have two stations here in Will County,
14 one in Joliet, and one in Romeoville. Combined these
15 stations have reduced emissions by well over 75 percent.
16 They have also reduced sulfur dioxide emissions by
17 20 percent. The bottom line is that Midwest Generation's
18 improvements and the regulation of our plants help meet
19 clean air goals while making sure we have a reliable and
20 affordable supply of electricity.

21 Finally, I want to make clear that we at
22 Midwest Generation understand that power plants have an
23 impact on the environment. Our record demonstrates that
24 we are committed to environmental responsibility. We

1 respect the concerns that people have about asthma and
2 other respiratory illnesses. It's a serious issue that
3 deserves serious attention. However, the claims we
4 sometimes hear that increases in asthma can be traced
5 specifically to our power plants just don't add up.

6 During the very period that asthma has been
7 on the rise, pollution from our power plants has been
8 falling dramatically. There simply are many factors that
9 contribute to asthma including indoor air pollution, such
10 as pollen, dust, tobacco smoke, even stress is thought to
11 be a factor with regards to asthma. It is also well-known
12 that vehicle emissions, especially from diesel trucks and
13 buses, are the biggest single source of air pollution. In
14 fact, statewide mobile sources account for about half of
15 the emissions in nitrogen oxides.

16 Every source of pollution must cut back.
17 We have done that. We will continue to do that. The
18 Title V permits give the EPA and the citizens of Illinois
19 more tools to monitor our operations and protect the
20 public. We welcome that and appreciate the opportunity to
21 speak in front of you tonight, and we would also like to
22 thank the Illinois EPA for the work you have done over the
23 last several weeks with all of the Title V hearings.
24 Thank you.

1 is no sign on the door to inform people that the hearing
2 is upstairs. When we came upstairs, there was no
3 indication outside, nor were we directed by a human being
4 into this room. So these are all things that need to be
5 addressed. And we would appreciate it if the next hearing
6 was held in a facility closer to where this particular
7 plant is located, which would be Lockport or Romeoville.
8 It's very difficult to get people from the Lockport area
9 to come all the way to Joliet at 6 o'clock in the evening
10 on a Monday night. So all these things have made us quite
11 unhappy to say the least.

12 I have some notes that I had taken. I'm
13 told by the people in the CARE group that I'm a very good
14 note taker, so we are going to go back to my notes. On
15 May 29 of this year, there was an occurrence almost all
16 day that day where there was jet noises coming out of the
17 facility in Romeoville, which is directly behind High
18 Road. I was at Ellen Rendulich's house, and we heard the
19 noise. We had talked to Ellen many times because she had
20 brought this up to our attention before in the past. And
21 she said this noise was so loud it sounded like jet planes
22 flying overhead. Sometimes it lasted a half hour,
23 sometimes an hour. This particular day it lasted over
24 four hours. It was almost five hours that this noise was

1 Ellen, because we were both on the phone with him back and
2 forth, that this was a malfunction. So if this was a
3 malfunction, I would like to know if someone can explain
4 to me how it can be considered a nonsafety issue. That
5 makes absolutely no sense to me. And he was trying to
6 tell us that this was minimal danger, but then later in
7 the conversation, well, you know, it's really not an
8 issue. These are some of the things that have bothered us
9 for years. This is not something that happens rarely.
10 This is something that happens all the time.

11 I also have some notes that refer to an
12 occurrence, actually I found on the Internet, back in
13 March of '99. And it referred to 24, I think it was 24
14 out of 55 barrels that were at the Midwest Generation
15 facility in Lockport. And there was a pipe that was seen,
16 and it was going into the Sanitary Ship Canal. There was
17 no follow-up on that specific incident. I would like to
18 know from the EPA if someone actually investigated it and
19 if anything was done because there was nothing on the
20 Internet to indicate that EPA had investigated, nor was
21 there any indication that there was follow-up. And if we
22 are supposed to depend on you to protect us, then I feel
23 that something is lacking in the way that things are being
24 addressed. That's about all I have.

1 HEARING OFFICER MATOESIAN: Thank you,
2 Miss Stark.

3 The next speaker I have is Sandy Burcenski.

4 MS. BURCENSKI: My name is Sandy Burcenski. I'm
5 also with the CARE group in Lockport.

6 I will again say just what Carol Stark
7 said, I'm very, very disappointed in the way this has been
8 handled. We came here. I was previously, I know Chris
9 Romaine, I have seen all you guys at the last two
10 hearings, the Crawford and the Waukegan. They were done
11 in a way that is -- I mean what I don't understand is how
12 are we second-class citizens. There was no sign pointed
13 here. All the other hearings were held at 7 o'clock. We
14 are held at 6 o'clock. The actual, the first two, the
15 Fisk and Crawford, not only had the summaries out on the
16 table; but they were both in Spanish and English. None of
17 the summaries here were out on the table. They are in a
18 box. It's just -- And to say that we have to end this
19 hearing at 8:45 is in my words ridiculous. To be able
20 to -- You have to give people the opportunity. If this
21 is a hearing, you have to give people the opportunity to
22 come forward and express not only their views and ask
23 questions and, hopefully, get answers to the questions.
24 With that said, I would like to move into

1 some questions pertaining to the application. What I want
2 to ask is pertaining to the cooling water and the process
3 stream. The cooling water is at usually the lower
4 pressure compared to the process stream, which is usually
5 at higher pressure. And if that's the case, what I want
6 to ask you is what occurs if there is a leak in the
7 process stream.

8 MR. ROMAIN: If there is a leak in the process
9 stream, water from the steam cycle would enter the cooling
10 water.

11 Is there anything further that Midwest
12 Generation would like to add to that?

13 MS. BURCENSKI: Wouldn't that contaminate the
14 cooling water system?

15 MR. ROMAIN: It would simply add additional
16 contaminants to the cooling water system.

17 MS. BURCENSKI: Where is the cooling water
18 going? What happens when it goes through the whole
19 process? Where does it eventually end up?

20 MR. ROMAIN: It would return to the Des Plaines
21 River.

22 MS. BURCENSKI: To the Des Plaines River.

23 Is there anything added to the cooling
24 water?

1 MR. ROMAIN: I would believe that there are
2 materials added to the cooling water. Now, this is an air
3 hearing. I'm not familiar on the details of the water
4 system at either of these power plants or any power plant,
5 but in general my understanding is that there are
6 additives added to cooling water at times to prevent
7 biological activity.

8 MS. BURCENSKI: Okay. My next question is what
9 measures did the IEPA use to confirm the validity of these
10 different facilities, their monitoring, and testing
11 systems.

12 MR. ROMAIN: The Illinois EPA relies on audits
13 conducted by the USEPA of the continuous emission
14 monitoring systems.

15 MS. BURCENSKI: That's the way basically you --
16 You don't have any type of surprise inspections? Do you
17 actually go out on site? Do you basically, to keep them
18 honest -- I mean they are basically doing all the
19 recordkeeping, right? All the monitoring, all the testing
20 is within Midwest Generation? They are doing all that,
21 supplying the reports and everything to you?

22 MR. ROMAIN: That's correct. Now, in terms of
23 testing, when emission testing is conducted, they are
24 required to notify us. It is normal practice to have

1 observers present when testing is conducted. We have our
2 inspections. But in terms of continuous emission
3 monitoring, because it is a federal USEPA program, we rely
4 on the oversight activities that USEPA conducts for
5 on-site inspections and monitoring systems.

6 MS. BURCENSKI: Okay. So you don't make any
7 like surprise-type inspections or go out there or to look
8 over the facility or see that --

9 MR. ROMAIN: I would not expect there to be
10 surprise inspections, no.

11 MS. BURCENSKI: When steam purging a vessel,
12 where does the material you are purging, where does that
13 go to?

14 MR. ROMAIN: My expectation is that that steam
15 purge would normally go to the atmosphere.

16 MS. BURCENSKI: Just go to the atmosphere.
17 Whatever you are purging, would go to the atmosphere.

18 According to what I have seen, because I
19 was looking a little bit at the Romeoville application but
20 also the Joliet, there is an ash pond at the Joliet
21 facility. Is there also an ash pond at the Romeoville?
22 Because I didn't look too much at the Romeoville.

23 MR. ROMAIN: I don't know. I don't know.

24 John, do you know?

1 MR. CASHMAN: Not off the top of my head.

2 MS. BURCENSKI: You don't know if there is an
3 ash pond at the Romeoville. There is a drawing for the
4 ash pond at the Joliet I know. It's within the
5 application, but --

6 MS. STARK: They are here, ask them.

7 MR. CASHMAN: Yes. Would Midwest Generation
8 like to answer that?

9 MR. PARNELL: There is.

10 MS. BURCENSKI: Okay. My next question is what
11 is in the pond.

12 MR. STROM: Dave Strom, Station Director, Will
13 County Station. Fly ash and bottom ash is in the pond.

14 MS. BURCENSKI: That's all that's in the --
15 What makes up fly ash and bottom ash?

16 MR. STROM: Combustion residue from the coal
17 combustion process, it's ash.

18 MS. BURCENSKI: So like what type of chemicals
19 are we talking about? What would be in there,
20 contaminants, hazardous, I mean, nonhazardous? What are
21 we dealing with in that pond? Do you guys ever test it?

22 MR. STROM: Yes. Regularly. It's ash.

23 MR. ROMAINE: A simply answer would be mineral
24 material. Calcium compounds, silicon compounds, sodium

1 compounds.

2 MS. BURCENSKI: And that's what it's tested for?
3 Does IEPA have some type of criteria? You have got an ash
4 pond. I'm not an engineer, I really don't know what an
5 ash pond is. But the problem I'm having with this, well,
6 it leads me into the next question. Is the pond lined?

7 MR. STROM: Yes.

8 MS. BURCENSKI: The pond is lined?

9 MR. STROM: Yes.

10 MS. BURCENSKI: It's lined with what? What is
11 the --

12 MR. STROM: Clay.

13 MS. BURCENSKI: Just clay. And how old is the
14 pond? Let's say for the Romeoville facility.

15 MR. STROM: Probably since the plant was
16 constructed in approximately 1955.

17 MS. BURCENSKI: I have a lot of problems with
18 these applications. This is just, I mean, unbelievable
19 that we are even standing here talking about this. You
20 have an ash pond that's lined with clay from the start of
21 this facility, and nobody sees a problem with this?

22 MR. ROMAINE: I guess, as I said, this is an air
23 hearing. Ash ponds do not emit emissions to the
24 atmosphere. As part of the operation of the facility,

1 bottom ash and fly ash is produced. This material is
2 transported with water. The mixture of bottom ash and fly
3 ash are then allowed to sit in ponds. The ash settles and
4 over time the water either evaporates or is discharged
5 back to the Des Plaines River after appropriate treatment.

6 MS. BURCENSKI: Okay. What would be the
7 appropriate treatment?

8 MR. ROMAIN: I would assume it would be
9 neutralization if necessary.

10 MS. BURCENSKI: Is this going to be addressed
11 somewhere else in another permit? Because I thought -- I
12 mean is this within like a water permit? Is this
13 addressed somewhere else within the IEPA?

14 MR. ROMAIN: Yes. To the extent that there is
15 a discharge from the ash pond, it's addressed through the
16 National Discharge Elimination System Permit that's
17 implemented by the Bureau of Water.

18 MS. BURCENSKI: Is the Bureau of Water going to
19 go in -- like the Title V you are going for the air, are
20 they going to do something concerning these ponds?

21 MR. ROMAIN: No.

22 MS. BURCENSKI: They are not going to do
23 anything. I mean the ponds are just going to be out there
24 forever?

1 MR. ROMAIN: The National Pollution Discharge
2 Elimination System is a federal operating permit for
3 sources of water pollution. It's a program that's been in
4 place for many years. The air program is finally catching
5 up to the water program in terms of having a federal
6 operating permit.

7 MS. BURCENSKI: Okay. Well, let me move on
8 then.

9 Why, if you can answer this, why are there
10 so many exemptions and exceptions throughout this permit?
11 Why are there so many in there? It seems every time you
12 turn around, especially with the opacity, they have
13 situations with the opacity levels; but yet, during these
14 startups, malfunctions, they have certain exemptions,
15 exceptions to these rules. Why are there so many of these
16 throughout the whole application?

17 MR. ROMAIN: Well, I differ with the
18 characterization of they are throughout the whole
19 application. However, the Board's rules that we implement
20 through these permits do provide for exceptions to
21 compliance with otherwise applicable rules during startups
22 and malfunctions and breakdowns. Those provisions are
23 currently provisions that are found in the rules that
24 apply to these power plants.

1 MS. BURCENSKI: So under certain statutes they
2 apply, the power plants can go for these certain statutes?

3 MR. ROMAIN: Under application regulations,
4 they are entitled to these.

5 MS. BURCENSKI: Are there any statutes or
6 regulations that are out there that protect the health,
7 safety, and welfare of the citizens in the State of
8 Illinois that are taken into account in this application?
9 I understand that the industry has got a lot of statutes
10 out there. There is none in there that take into account
11 when they are doing this, they are allowed to get this
12 exemption? But the people around the areas, what are they
13 suffering, what are they incurring from these things,
14 every time there is a startup or shutdown or malfunction
15 or whatever? What's coming out of those stacks that we
16 have to breathe?

17 MR. ROMAIN: The provisions for startups are
18 present to address the nature of the regulations. It's
19 our general belief that emissions during startup are not
20 necessary larger in terms of mass of emissions. It has to
21 do with the form of the emission limitations. Because
22 emission limitations are expressed as a rate of emissions,
23 they are allowed to emit so much per unit of heat input to
24 the boiler.

1 It is not feasible for Midwest Generation
2 to comply with those limitations at very low loads of
3 operation, very low rates of operation that's present
4 during startup. Accordingly, it's possible under the
5 existing Board rules for a source to be excused for
6 compliance with those regulations during startup. That
7 doesn't mean that the emissions are actually any higher
8 than they would be when the plant is operated normally
9 because plants operate at low load during startup.

10 And when I say that they are excused from
11 compliance with emission standards, that does not mean
12 they are excused from compliance with reporting
13 requirements. For purposes of reporting requirements,
14 these are considered deviations. And as part of its
15 routine compliance reports, Midwest Generation must report
16 all periods of time when emissions were above applicable
17 standards including periods of startup and malfunction and
18 breakdown.

19 In terms of malfunction and breakdown,
20 there are only three circumstances where a source is
21 entitled to obtain permission from the new operation
22 during malfunction and breakdown, and that is to protect
23 its employees, to protect equipment, and to provide
24 essential service. Notwithstanding the permission to

1 continue operation during malfunction and breakdown, the
2 source is still under a general obligation to take all
3 appropriate measures to minimize emissions. Obviously,
4 the continued operation of the unit solely for the
5 economic benefit of a source is prohibited. The
6 regulations do provide us with the ability to require very
7 prompt reports of malfunctions that can continue for long
8 periods of time and, in fact, give us the authority to
9 specify what actions a source will take in response to
10 malfunction.

11 So in general when a malfunction occurs,
12 the source shall immediately report such incident to the
13 Agency by telephone, telegraph, or such other method as
14 constitutes the fastest available alternative except if
15 otherwise provided in the operating permit. As you can
16 see, these provisions have been around for a period of
17 time. We do not usually get much reporting these days by
18 telegraph.

19 MS. BURCENSKI: What is --

20 MR. ROMAINE: One other point I will make here
21 is the authorization is sort of a limited authorization.
22 "Permission to operate during a malfunction or breakdown
23 or to violate standards of this chapter in startup and
24 full compliance with any terms and conditions connected

1 therewith shall be a prima facie defense to any
2 enforcement action alleging a violation of paragraph A,
3 prohibition against continued operation, of the emissions
4 and air quality standards of the chapter and of
5 prohibition of air pollution during the time of such
6 malfunction, breakdown, or startup."

7 Because it's only a prima facie defense, we
8 certainly have full authority, the USEPA has authority, to
9 dispute the source's claim that emissions were acceptable
10 and to pursue an enforcement action if we believe it did
11 not take responsible and appropriate actions to minimize
12 actions as to protect public health.

13 MS. BURCENSKI: Okay. So you said immediately.
14 So how would you define immediately?

15 MR. ROMAIN: We have provided clarification of
16 the term immediately in this permit.

17 MS. BURCENSKI: It is, okay.

18 MR. ROMAIN: We have stated that if they cannot
19 get a malfunction or breakdown repaired in two hours, they
20 have to immediately notify us. We would expect it to be
21 by telephone or e-mail.

22 MS. BURCENSKI: And what about the general
23 public that's surrounding the area? So there is two hours
24 that the potential is for releases that are occurring

1 during this malfunction. Is the general public, which
2 leads me to my next question, is there any type of
3 emergency plan connected to this application?

4 MR. ROMAIN: No, there is not. When we are
5 talking about malfunctions and breakdowns, we are talking
6 about enforcing technology-based regulations. The
7 existence of a malfunction and breakdown does not
8 inherently pose a threat to public health or welfare. It
9 simply means that the equipment, in this case, most likely
10 the electrostatic precipitator, is not operating properly,
11 and, as a result, there are emissions that are above the
12 acceptable emission standards, the applicable emission
13 standard. That does not necessarily mean that the
14 emissions are anywhere near the levels that would pose a
15 threat to human health.

16 Given the nature of electrostatic
17 precipitators and the nature of the rules that we are
18 dealing with, we have rules that apply the six-minute
19 average. We apply the opacity standard every six minutes,
20 clearly a violation of the opacity standard for a
21 six-minute period does not pose a threat to human health.
22 It's simply an indicator that the ESP is not working
23 properly. When that occurs, it may be simply an
24 electrical problem, maybe a circuit breaker is tripped,

1 maybe they have lost power to a particular section of the
2 ESP and they can compensate in some manner, maybe
3 something has become overloaded, thereby interfering with
4 the correct operation of the ESP. Those are things that
5 could be repaired relatively quickly.

6 As a general practice, it's believed that
7 prompt repairs of malfunction are, in fact, better for the
8 environment than shutting down the unit and beginning a
9 startup. Obviously, the ESP is not operated during a
10 startup. So we have a compromise between allowing the
11 unit to continue where things aren't perfect or forcing
12 the boiler to be shut down, posing certain risks to
13 personnel and equipment, potentially interfering with
14 electrical supply, and then forcing a startup which again
15 has additional expectations.

16 The choice which has been made in this
17 permit is to allow Midwest Generation what we believe to
18 be a fairly short period of time, two hours, to get the
19 electrostatic precipitator repaired or to begin the
20 process of bringing the boiler down, if it is feasible to
21 do so without endangering the power supply to the Chicago
22 area.

23 MS. BURCENSKI: That was a mouthful.

24 The precipitator malfunction may cause

1 opacity and/or particulate limits to be exceeded. Is
2 there any technology available that would prevent this
3 occurrence?

4 MR. ROMAIN: Nothing that we are aware of.

5 MS. BURCENSKI: There is nothing that could,
6 with new technologies and all the different things, this
7 is 2003, there is nothing that could help?

8 MR. ROMAIN: There are things that can be done
9 to improve the performance of the electrostatic
10 precipitator, upgrade it, maintain it. But when you are
11 relying on a control device to control emissions, then
12 there is the potential or likelihood that under certain
13 circumstances that device will malfunction and break down.

14 MS. BURCENSKI: Okay. Let's see. And you did
15 say there is no emergency plan?

16 MR. ROMAIN: No.

17 MS. BURCENSKI: Or you guys don't have to have
18 an emergency plan connected to this?

19 MR. ROMAIN: And we do not believe one is
20 necessary in terms of the types of malfunctions and
21 breakdowns that we are dealing with.

22 MS. BURCENSKI: Okay. Let me ask one more
23 thing, and I will get off here to give everybody else the
24 opportunity.

1 Let's see. Okay. Fugitive dust. Why is
2 it, it states in here "Any discernible amount of dust
3 emanating from roads, unpaved areas, and coal- or ash-
4 handling operations that crosses over the station property
5 line is considered a violation of fugitive dust
6 regulations." And then right after that it's got, "This
7 does not apply when wind speed exceeds 25 miles per hour."

8 Where -- I mean doesn't that go against
9 everything that you just stated in the previous sentence?
10 Why doesn't this apply if the wind is over 25 miles an
11 hour?

12 MR. ROMAINE: The applicable rules provide that
13 these particular limitations shall not apply to emissions
14 of fugitive particulate matter from stockpiles of
15 materials when the wind speed is greater than 25 miles per
16 hour. When the rules were adopted, the determination was
17 made that it was not reasonable, economically feasible, to
18 assure that there would not be visible particulate matter
19 emissions when wind speeds were at that level. There may
20 also be a determination that when there are wind speeds at
21 that level there is only adequate dispersion of fugitive
22 dust to assure that it is not going to be depositing in
23 any particular area causing local nuisance.

24 MS. BURCENSKI: Well, maybe not in the real

1 local area; but the dust has got to end up somewhere. I
2 mean somebody is going to be impacted by this if it's
3 blowing at 25. I agree that the dispersion is going to be
4 maybe more, but somebody is going to be impacted by this.

5 MR. ROMAIN: I agree. It would be uniformly
6 distributed over a very large area.

7 MS. BURCENSKI: I mean there is no way you can
8 incorporate -- Is this basically the same permit that
9 they have been under? Is this basically what they have
10 been, business as usual, only it will become enforceable?

11 MR. ROMAIN: No. There are very specific
12 provisions in this permit that are certainly more rigorous
13 than the permit that Midwest Generation was currently
14 operating.

15 MS. BURCENSKI: Well, this also, this does not
16 apply with the wind speed over 25 miles an hour. And I
17 believe if it's over 25 miles an hour, they don't water or
18 use any type of suppressing agent on it, also, if it's
19 over 25. Which to me is ridiculous because it's going to
20 go somewhere. Somebody is going to be impacted by this.

21 Let me get off, give somebody else the
22 opportunity to speak. Thank you.

23 HEARING OFFICER MATOESIAN: Thank you,
24 Ms. Burcenski.

1 The next speaker is Mr. Tim Tacker.

2 MR. TACKER: Good afternoon. My name is Tim
3 Tacker. I'm here on behalf of the Will County Green
4 Party.

5 Mainly what I have for you this evening are
6 questions. The first question I have is I was just
7 curious as to when the last time these sources were
8 inspected by the EPA.

9 MR. ROMAINE: I don't have that information
10 available.

11 Mr. Strom, do you know when you were last
12 inspected?

13 MR. STROM: We had an EPA visit a week or so ago
14 to look at various improvements.

15 MR. TACKER: Were the sources found to be in
16 compliance at that time, and does your answer apply to
17 both facilities?

18 MR. ROMAINE: I can answer half of that
19 question. They may not know if their facilities were
20 determined to be in compliance, that is not information
21 that would necessarily be revealed at the end of an
22 inspection. If they were determined to be out of
23 compliance, they would be receiving a letter in the mail
24 informing of the difficulties that were identified.

1 You may have further information in terms
2 of variable discussions with the inspector.

3 MR. SEATON: Gary Seaton, facility director,
4 Joliet station. Our plant was also inspected within the
5 last month. And as you stated, they don't particularly
6 tell you. You know, they talk to you; but you wait to get
7 any kind of response.

8 MR. TACKER: So I understand, the answer is as
9 of the inspection this past week and this past month, we
10 do not know the results as to whether or not they were in
11 compliance. Are we aware of whether or not these plants
12 were in compliance at the previous inspection or any prior
13 inspection if they were out of compliance?

14 MR. ROMAINE: Well, if the question is with
15 regard to compliance, we do receive quarterly emission
16 reports from the facilities. It's our belief that they
17 are in compliance for sulfur dioxide and nitrogen oxide
18 emissions. In terms of opacity and particulate matter
19 emissions, they are in compliance roughly 99 percent of
20 the time. There are exceedances in the six-minute opacity
21 standard during certain types of load changes, shutdowns,
22 startups; but we believe that the level of compliance is
23 sufficient not to warrant further follow-up by our Agency.

24 MR. TACKER: Moving on to the next question.

1 From reading the project summaries, I notice that it had
2 mentioned that at one of the two plants, I believe it was
3 the Joliet plant, that there were two boilers that weren't
4 currently in use and upon the issuance of this permit
5 those boilers would be brought on line with upgrades.
6 Please correct me if I'm wrong. It mentioned upgrades. I
7 was just curious as to whether that was true and what type
8 of upgrades we were talking about.

9 MR. ROMAIN: These are at Will County. Boilers
10 1 and 2 are out of service at the present time. I do not
11 recall what comments we made in the project summary in
12 that regard.

13 MR. ROMAIN: You can't find that comment, John?

14 MR. CASHMAN: No. We can get back to you on
15 that one.

16 MR. TACKER: Okay. As long as they are in the
17 response.

18 MR. CASHMAN: Sure.

19 MR. TACKER: I would also be interested how long
20 these boilers have been out of service. So while
21 technically not a new source, it would definitely be
22 additional emissions bringing those boilers online.

23 I also read in the project summary that
24 Midwest Generation was seeking to combine two sources into

1 a single source, one on each side of the river I believe.

2 What was the purpose of that?

3 MR. ROMAIN: That has already occurred.

4 MR. TACKER: Okay.

5 MR. ROMAIN: Under the Title V permit program,
6 all operations have to be covered by a single source.
7 Prior to Title V program, the Joliet plant was permitted
8 under separate permits for each boiler. In fact, beyond
9 that, in our records it was shown as two different
10 sources. There is a boiler on the south side. There is
11 boilers on the north side of the river. And actually coal
12 gets conveyed across the river by a conveyor belt. Those
13 two sites, two facilities, are now considered one source
14 and are being addressed by a single Title V permit.

15 MR. TACKER: We had mentioned failures earlier
16 in this hearing. And while failures are certainly
17 understandable, you also mentioned that, obviously,
18 failures can be caused by failure to properly maintain
19 equipment. I'm curious as is there any cap or maximum
20 number of failures which a plant can experience until some
21 sort of investigation is launched or disciplinary action
22 is taken.

23 MR. ROMAIN: We do not have any set number. We
24 could pursue a source for one failure. We could be more

1 generous for a number of failures, with comment that if
2 there appears to be a chronic problem my understanding is
3 that it is pursued. We do not like to see the same thing
4 failing over and over again.

5 MR. TACKER: Okay. So a decision is made but
6 there is really no standards that have guidelines by which
7 that decision is made, it's a judgment call in essence?

8 MR. ROMAINE: That is correct.

9 MR. TACKER: Further reading the project
10 summary, I did notice that one of the facilities in
11 addition to coal was also looking to burn, if they are not
12 already doing so, garbage, in essence, old tires and
13 plastics. I didn't really understand that part of the
14 permit. Maybe you can explain to me the purpose of that.

15 MR. ROMAINE: Do you want to handle that, John?

16 MR. CASHMAN: Go ahead. You handled it pretty
17 good in the other ones. I believe he's referring to
18 section 7.111, alternative fuels.

19 MR. ROMAINE: Yes. As part of the Title V
20 permit, there is a provision for operating flexibility.
21 We are going to be looking at those requests by Midwest
22 Generation. We have received comments on this issue at
23 other hearings. There are cleaner alternate fuels that
24 can be burned in coal-fired boilers. We certainly want to

1 facilitate use of cleaner alternative fuels as they become
2 available to Midwest Generation. At the same time, and I
3 guess I would clarify for that purpose, based on available
4 experience, for example, tires are one such fuel. In
5 fact, tires appear to burn much more cleanly than coal.

6 There are certain regulatory requirements
7 that apply to burning alternative fuels, in particular,
8 burning of wastes, that this permit is not intended to
9 excuse Midwest Generation from any of the applicable
10 requirements that would apply to burning of waste; and we
11 will make that clear in the proposed permits that we
12 issue.

13 In terms of the provisions for burning of
14 garbage, I don't think we have decided what should be done
15 with those yet. It's generally something that the public
16 has expressed a great deal of concern with. And given
17 those comments, we have to evaluate whether it's
18 appropriate to address that within the general operating
19 flexibility allowed by the Title V or whether a revision
20 to this permit should be required if the facility decides
21 to burn garbage.

22 MR. TACKER: And that decision would be made
23 before the issuance of a Title V permit?

24 MR. ROMAIN: Yes, it would.

1 MR. TACKER: As you know, Lieutenant Governor
2 Pat Quinn has taken an interest in some of the effects of
3 coal-fired power plants and, in particular, the proposed
4 Indeck plant. And as part of that interest that he has
5 taken, he's taken an interest in the effect on the local
6 waterways. And these two plants in particular are along
7 the Des Plaines River, the Ship & Sanitary Canal, and the
8 I & M Canal Corridor. I'm curious as to the proximity to
9 these three waterways, what effect they will have in terms
10 of mercury and other emissions on these waterways.

11 MR. ROMAINE: We have not specifically evaluated
12 that issue for impacts on waterways. The general
13 expectation is that these plants contribute to the general
14 loading of pollutants to aquatic ecosystems, as other
15 coal-fired power plants, that it's not possible to
16 specifically identify these plants as having any greater
17 or any lesser effect than coal-fired power plants.

18 MR. TACKER: Does the proximity of these sources
19 to these waterways make a difference?

20 MR. ROMAINE: No. In fact, when you look at
21 coal-fired power plants, all coal-fired power plants are
22 involved in some way with a water supply, water discharge,
23 because you need water for cooling. So water is always
24 present with a coal-fired power plant.

1 MR. TACKER: I would like to ask you a few
2 questions about the actual process that we are in here.
3 In the couple hearings that I have been to recently, I
4 have noticed that they have varied in quality and
5 accessibility and other factors. I have looked through
6 some of the statutes and regulations, and I really haven't
7 found any consistent standards for what constitutes a
8 hearing. I was wondering if you have a standard or some
9 kind of guideline that you follow that determines due
10 process when it comes to a public hearing.

11 MR. ROMAINE: The applicable regulations for
12 hearings are the ones that the hearing officer identified,
13 those are the applicable regulations that govern.

14 MR. TACKER: Okay. And those regulations as I
15 read them essentially say that a hearing will be held, but
16 they do not talk in detail as to what will be provided or
17 how those hearings will be conducted, etcetera, etcetera.
18 So, you know, as a comment rather than a question, I would
19 ask that you consider coming up with some kind of standard
20 for these hearings so that we know what to expect and the
21 public can participate in these hearings in a useful
22 manner. When we don't know what to expect, sometimes it's
23 difficult to either be here or know what questions to pose
24 or generally participate as the public should be able to.

1 HEARING OFFICER MATOESIAN: Thank you.

2 MR. TACKER: A couple more. From what I
3 understand, the purpose of a Title V permit is to address
4 all applicable regulations, not only air; or is it only
5 air-based regulations?

6 MR. ROMAIN: Actually, it is air-based
7 regulations pursuant to the Clean Air Act.

8 MR. TACKER: Only. Okay. This particular
9 hearing addresses two facilities, two sources in one
10 hearing. I was curious as to why the EPA did not decide
11 to hold two separate hearings for two separate sources.

12 MR. ROMAIN: I guess two reasons. The issues
13 posed by the sources are similar. They are owned by one
14 applicant. They are in one general region. And then in
15 terms of managing our resources for hearings, we decided
16 it would be appropriate to consolidate these hearings. We
17 also believed in our judgment it would, obviously, be more
18 effective for the members of the public who are interested
19 in these facilities to be able to attend a single hearing
20 to address both facilities at once rather than feel
21 obligated to attend two separate hearings.

22 MR. TACKER: Okay. What was the original
23 deadline to have these Title V permits in place? Are we
24 beyond that deadline?

1 MR. ROMAIN: Yes.

2 MR. TACKER: What was the original deadline?

3 MR. ROMAIN: I don't recall.

4 MR. TACKER: Do you think it's more than a year?

5 MR. ROMAIN: Oh, I'm sure it's more than a
6 year. I'm not sure if it was two years or three years.

7 The issuance of Title V permits has been more complex and
8 resource intensive than was anticipated.

9 MR. TACKER: Okay. While that is certainly
10 understandable, as my final comment, I would just say that
11 I think that in no short -- in no small manner is that
12 creating a rushed process. In having taken a look at some
13 of these permits and draft permits, they look very
14 similar. And I'm concerned, and I know others are
15 concerned, that in an effort to expedite this process,
16 when we see permits that are similar, we see a public
17 hearing that's covering two sources and two facilities, it
18 gives us the impression that we are being hurried through
19 the process.

20 Now, I'm not going to make any comment if
21 that actually is the case or not. I'm only talking about
22 the impression that this gives. And I would ask that you
23 consider that moving forward.

24 And that's the comments that I have. Thank

1 you.

2 HEARING OFFICER MATOESIAN: Thank you,
3 Mr. Tacker.

4 The next speaker I have listed is
5 Ms. Verena Owen.

6 MS. OWENS: With your permission, I would defer
7 to local people first.

8 HEARING OFFICER MATOESIAN: Okay. Okay. The
9 next speaker then is Ms. Paula Becker Wheeler.

10 MS. WHEELER: Thank you. My name is Paula
11 Becker Wheeler. I'm an Assistant Attorney General. I'm
12 here with a comment by the People of the State of Illinois
13 through Lisa Madigan, the Attorney General of the State of
14 Illinois.

15 Article XI of the Illinois Constitution
16 speaks to the right to a healthful environmental. The
17 public policy of this State and the duty of each person is
18 to provide and maintain a healthful environment for this
19 and future generations. The Illinois Environmental
20 Protection Act states that "It is the purpose of this
21 Act ... to restore, protect and enhance the quality of the
22 environment, and to assure that adverse effects upon the
23 environment are fully considered and borne by those who
24 cause them."

1 The Clean Air Act Permit Program has
2 several requirements. First off, the applicant must
3 submit a complete CAAPP application. He must provide all
4 the information sufficient to evaluate such a source and
5 its application, and to determine all the applicable
6 requirements pursuant to the Clean Air Act and the
7 regulations thereunder, and the Illinois Environmental
8 Protection Act and the regulations thereunder. Also the
9 applicant shall submit with the application a compliance
10 plan, including a schedule of compliance describing how
11 each emission unit will comply with all applicable
12 requirements. And then the Illinois EPA must assure that
13 the applicant has fully complied with the requirements.

14 The applicant must fully establish what
15 emission limits apply to the sites. This draft permit
16 before you now determines that these sites are existing
17 sources per the Illinois Pollution Control Board
18 regulations since they were constructed or modified before
19 April 14th of 1972. These regulations are the least
20 stringent emission limits available to the applicant.
21 This determination requires full disclosure by the
22 applicant and a review by the Illinois EPA of whether the
23 sites were ever modified per the Illinois Pollution
24 Control Board definition since April 14th of 1972. If the

1 sites have been modified since April 14, 1972, they are
2 new sources and the permits must contain those tougher
3 requirements.

4 Determining what regulations a site must
5 meet is a fundamental first step in the permitting
6 process. Equally important is the need for the applicant
7 to fully disclose all modifications to the facilities
8 since August 17th of 1971 to allow the Illinois EPA to
9 make its New Source Review determination.

10 A determination that New Source Review has
11 been triggered by site modifications would require the
12 source to meet New Source Performance Standards and apply
13 the best available control technology to the plants, which
14 again are much more stringent than the emission limits
15 proposed within this draft permit. These are the emission
16 limits most protective of the environment and human
17 health.

18 With so many tons of annual emissions at
19 stake, the applicant must be required to fully disclose
20 all relevant information for full Illinois EPA
21 consideration.

22 Section 201.141 of the Illinois
23 Administrative Code, Prohibition of Air Pollution, states
24 that "No person shall cause or threaten or allow the

1 discharge or emission of any contaminant into the
2 environment in any state so as, either alone or in
3 combination with contaminants from other sources, to cause
4 or tend to cause air pollution in Illinois ...". There can
5 be no doubt that these sites do "in combination with
6 contaminants from other sources cause or tend to cause air
7 pollution in Illinois."

8 The Illinois EPA should review the effects
9 of these emissions on the environment and public health in
10 light of the numerous health studies and personal accounts
11 being presented here tonight regarding the human toll that
12 air pollution causes in our state. These sites are a
13 significant contributor of contaminants in the third
14 largest metropolitan area in the United States. They must
15 be fully reviewed and properly controlled to protect the
16 public health and environment. Thank you.

17 MR. ROMAINE: Thank you, Ms. Wheeler.

18 The next speaker I have is Miss Kimberly
19 Kowalski.

20 MS. KOWALSKI: Hi. I'm Kimberly Kowalski. I'm
21 president of the Livable Communities Alliance. I'm also a
22 Will County resident. I live in New Lenox Township.

23 First, I want to address some of the things that
24 came up at the hearing. When you said the USEPA audits

1 the power plant, can you tell me how often you do that?

2 MR. ROMAIN: No. I don't know. Do you know?

3 MALE AUDIENCE MEMBER: About every year, three
4 years.

5 MS. KOWALSKI: Every three years, okay. Now, my
6 other question is you said that they turn in reports once
7 a month. Am I correct? You just showed some reports or
8 something that they turn in on opacity.

9 MR. ROMAIN: That's correct. These are
10 actually quarterly reports.

11 MS. KOWALSKI: Oh, they are quarterly. Are
12 those an independent audit by an outside entity, or is it
13 actually from the facility itself? And how do we know
14 that those are accurate reports and --

15 MR. ROMAIN: It is from the facility itself.
16 The accuracy of those reports would be something that
17 would be evaluated by USEPA during the audit process. It
18 is also something that our field staff can check during
19 our field inspections to verify specific periods of time
20 and see what was reported during those times.

21 MS. KOWALSKI: Okay. You also mentioned an
22 NPDES permit, but it sounded to me as if you all don't
23 handle that. That's handled through --

24 MR. ROMAIN: That is correct. NPDES permits

1 are handled by the Bureau of Water.

2 MS. KOWALSKI: Bureau of Water, okay.

3 Well, I will go on now to my comments.

4 Although, I have changed these a little since hearing
5 Mr. Parnell's comments. I take some slight issue with his
6 comments regarding the correlation between the emissions
7 from the coal power plants and their contribution to
8 asthma. It is true that coal-fired power plants
9 contribute 96 percent sulfur dioxide emissions, 93 percent
10 of nitrogen oxide, 80 percent of carbon dioxide, and
11 99 percent of mercury emissions.

12 Smog results for nitrogen oxide reacts with
13 volatile organic compounds and some light ground-level
14 ozone. Am I correct in saying that? Power plants are
15 second only to automobiles as the greatest source of NOx
16 emissions. When inhaled, smog causes a burning of the
17 cell walls of the lungs and air passages. Over time, this
18 weakens the elasticity of the lungs making them more
19 susceptible to infection and injury and causing asthma
20 attacks or other respiratory illness.

21 Soot are fine particulars resulting from
22 the burning of coal which emit sulfur dioxide and nitrogen
23 oxide gases. Scientists increasingly believe soot to be
24 the most dangerous air pollutant blaming

1 64,000 deaths per year in the U.S. which is almost twice
2 the number of deaths due to auto crashes. Cutting power
3 plant pollutants by 75 percent would avoid more than
4 18,000 of these deaths.

5 The soot from power plants triggers an
6 estimated 603,000 asthma attacks nationwide every year,
7 and that figure is from the American Lung Association.
8 Asthma is the leading cause of hospitalization for
9 children in Illinois and the asthma hospitalization rate
10 in Chicago is double that of the national average. So,
11 therefore, if coal-burning power plants create soot and
12 soot creates asthma, I think there is a correlation.

13 I take issue with him also mentioning --
14 being asthmatic, I do follow these things -- that indoor
15 air pollutants are a bigger cause. That has not to my
16 knowledge been confirmed completely scientifically,
17 although I may be incorrect with that. But I know there
18 is much suspicions to that, much of the chemicals in
19 carpeting and things like that, but that doesn't explain
20 why it would happen when you live in a house that's
21 30 years old that has hardwood floors that has no new
22 chemicals in them, so, you know.

23 Having said all that, I feel confident that
24 this coal-burning power plant causes and exacerbates

1 asthma. So today I'm going to tell you what it's like to
2 be asthmatic. I was born with asthma and started being
3 treated for it by the age of two. My mother told me that
4 I went to the hospital a few times and was put in an
5 oxygen tank, but I don't remember that. What I do
6 remember is having to do breathing treatments when I got
7 sick. I remember not being able to play tag with the
8 other kids and run around the area. And when I did and I
9 got an asthma attack, I would hide in my room because I
10 didn't want my mother to know that I had been running
11 around like she told me I couldn't do.

12 I remember having dreams as a child that I
13 could run, that I could really run, and it was okay
14 because I could breathe. My asthma is hereditary, but I
15 remember my doctor and my mother always telling me that I
16 would grow out of. Unfortunately, I never did.
17 Unfortunately, there are thousands like me that were told
18 the same thing and never did.

19 It was once thought the asthma rates would
20 be halved by now at least; but unfortunately, they have
21 doubled. I'm lucky. Mine is under control. I take my
22 medicine every night, and I make sure that I have my
23 inhaler whenever necessary. I can ride my bike 10 to 20
24 miles and in my younger years I could even run. But

1 unlike everyone else, there is one thing that goes
2 everywhere with me, and that's my inhaler, and I never go
3 anywhere without it.

4 I carry one other thing with me as well,
5 and that's the fear of having an asthma attack anytime,
6 anyplace. It happened when I was about 21 years old. I
7 went on vacation in Michigan and had nothing on me, I went
8 for a run. And I had a fairly horrible asthma attack, and
9 I was able to talk myself out of it; but it's probably one
10 of the scariest things you will ever know. And panic is
11 one of the worst things you could ever do.

12 But I'm telling you all this because people
13 who don't have respiratory problems take it for granted.
14 You just do it and you never think about it. It's as
15 natural as blinking your eyes. What if you suddenly felt
16 your chest tightening and your breathing constrained and
17 you were gasping for breath. One of the most fittings
18 slogans from the American Lung Association is "When you
19 can't breathe, nothing else matters" because it's very,
20 very true.

21 So when you make this decision, remember
22 for the thousands who have asthma or the thousands who
23 will contract asthma from this power plant, nothing else
24 will matter. Think of the children that didn't inherit

1 asthma and will now know the stress and fear of it. Think
2 of the children that will know this disease. Remember
3 that they didn't need to have it, they don't deserve to
4 have it. It isn't like cigarette smoking. They didn't do
5 it to themselves. Someone did it to them. Someone who
6 would know what would happen, and someone who looked the
7 other way.

8 I remember learning that in the late '50s
9 and '60s there was people who warned about the dangers in
10 cigarette smoking and everybody just ignored them and went
11 their way. Now we look back and wonder how ignorant and
12 naive they were. If you go back further, doctors bled
13 their patients to get infections out. Now we think it's
14 archaic. You know, this is not 1903. This is 2003. And
15 it's time that America moved beyond its archaic forms of
16 energy production. We have long known the adverse effects
17 of coal. I remember learning in schools about how coal
18 mining affected the coal miners. It's time to move on and
19 invest our capital into renewable energy sources that
20 don't pollute the air. We can't afford not to. The stakes
21 are now too high.

22 Finally, I honestly don't know how the
23 people who are doing these kinds of things sleep at night.
24 And so, when you do remember that tonight somewhere,

1 within the range of this coal-burning power plant, there
2 is a child out there who has asthma and might not be able
3 to afford the air conditioning, that means the smog they
4 are breathing in this 95 degree weather could be affecting
5 their lungs tonight, and they might not be able to sleep
6 because of it.

7 When I was very young, we didn't have air
8 conditioning. And I can remember not being able to sleep
9 very good on a hot summer night. So somewhere out there
10 there is someone else doing that, and it's affecting them.
11 And thank you for this opportunity and to comment.

12 HEARING OFFICER MATOESIAN: Thank you,
13 Ms. Kowalski.

14 MR. ROMAIN: I guess I would like to make a
15 couple brief responses. We appreciate your comments. We
16 certainly all have loved ones that suffer from asthma
17 because that's the way it is in this country.

18 I think the point that was being made is
19 the difference between causation and affecting people that
20 have asthma. What causes asthma is a difficult question.
21 Some people know it's hereditary, but I don't think there
22 is any question that once you do have asthma smog does
23 affect it. So I would agree with you that people with
24 asthma have to watch out for the air pollution.

1 On the other hand, you made the good point
2 that on one hand air pollution causes asthma to get worse,
3 triggers attacks; on the other hand, people need air
4 conditioning to cope with asthma. And air conditioning
5 needs electricity. So we have some challenges on our
6 nation to how we manage our electrical supply to provide
7 the best possible health care we can for our citizens.

8 MS. KOWALSKI: Correct. But as I said earlier,
9 this isn't something new on the drawing board. This is
10 2003. We knew that there was going to be energy concerns
11 down the pike back in the '70s. And nothing, nothing in
12 this country has been done. We have dropped the ball. We
13 have screwed up. And now we are falling back on old
14 energy sources, and it's time to move on.

15 If we have to clean this plant out in the
16 meantime, let's clean it up. But for us to turn the other
17 way and go on committing the same errors that we have been
18 committing for the last 50 years or 45 years is atrocious.
19 And it shouldn't be acceptable. It shouldn't be
20 acceptable by you, nor should it be acceptable by me.

21 This is only my second hearing, and I find
22 it appalling to some degree that we as the citizens
23 oftentimes feel like we need to stand up here and justify
24 our reasons being here. You are here to protect us, to

1 protect what's necessary for us. You are not here to
2 speak for them. And if that's what you are doing then,
3 obviously, you are working for the wrong people. Because
4 you are supposed to be working for us. And I don't feel
5 that it should be necessary that we should have to stand
6 up here and beg to be heard and beg to have our things
7 justified.

8 You should have the answers. You should
9 know your business. You should know what's right. And we
10 need to move on. We can't keep saying, well, that's the
11 way we have done, so that's the way we are going to do it.
12 It's time to start thinking differently in this country.
13 It's going to be too late soon, and our children are going
14 to be inheriting this. And we can't keep turning our
15 backs. It's horrifying.

16 MR. ROMAIN: And I agree completely. And in
17 terms of programs that are coming, they are trying to cope
18 with this issue. I am not sure if --

19 MS. KOWALSKI: Why are the programs -- Why
20 can't you think more forward than that? Why are we
21 waiting for the USEPA to come forward with programs that
22 are not even confirmed that they are going to work? I
23 mean Bush's programs have not confirmed that they are
24 going to help clean up the air in any way, shape, or form

1 at all.

2 So for you to justify future things that we
3 are going to be doing on the per chance that this will be
4 put through and that it is going to work is ludicrous. We
5 need to think in terms of now. We need to start turning
6 to now and not wait. If anything, make them clean it up,
7 make the emission standards be higher. Do what you can do
8 to protect us so that we can move forward in the future.

9 I mean these companies have to start
10 thinking differently. They can't just keep doing this and
11 then it's okay. I mean it's time for them to hop on the
12 bandwagon and get involved with other more renewable
13 sources.

14 MR. ROMAIN: Thank you for your comments.

15 MS. KOWALSKI: So --

16 HEARING OFFICER MATOESIAN: The next speaker I
17 have is Miss Ellen Rendulich.

18 MS. RENDULICH: Hi. I'm Ellen Rendulich. I'm
19 with CARE.

20 One thing I can't help but noticing, it
21 just seems so strange to me that you are the EPA, they are
22 monitoring their own stuff, and they are answering all
23 their questions. When we ask about when something has
24 been reviewed or monitored, you are asking them. I

1 thought you were supposed to answer us. I thought you
2 were supposed to know when things were monitored and how
3 often they were monitored. So I found that kind of
4 strange.

5 I have just some questions here. How are
6 we protected if we are within the fallout area from
7 untreated fugitive chemical releases during malfunctions?

8 MR. ROMAINE: You are protected because of the
9 level of emissions control that is provided during those
10 incidents and by the nature of power plants with the very
11 tall stacks.

12 MS. RENDULICH: I don't understand that answer.
13 Because if this is fallout and if this is created by
14 malfunctions, what's going up has not been treated. So we
15 are not being protected, are we?

16 MR. ROMAINE: In terms of malfunctions, what we
17 are talking about is not sulfur dioxide and nitrogen oxide
18 emissions which contribute to fine particulate matter. We
19 are talking about the fly ash that comes from combustion
20 coal. And that material would be exhaust at the top of
21 the stacks in greater amounts than would -- in a greater
22 rate in terms of startup or greater amount in terms of a
23 malfunction.

24 The fact that it is a greater amount

1 doesn't necessarily mean that's a level that proposes a
2 significantly greater threat to public health.

3 MS. RENDULICH: I called about a release when I
4 saw the sky was covered with black clouds a couple years
5 ago, a year or so ago. When I called the EPA, they said,
6 "Stay in the house. Close your windows and doors the rest
7 of the day." No one notified us. We had to notify you.
8 Where was our protection then, and where is it in this
9 permit?

10 MR. ROMAINE: I have explained the benefits of
11 the Clean Air Act Program as it does increase the level of
12 reporting that's required, the level of notification that
13 is required, above the permits that Midwest Generation is
14 currently subject to.

15 MS. RENDULICH: When I asked the EPA about the
16 health effects the chemicals that had been released or
17 have on the environment on local vegetable gardens and in
18 the water would create, I was told that this would
19 dissipate on its own, there is no cleanup. How will we be
20 protected with this permit?

21 MR. ROMAINE: I guess I don't know the instance
22 you are referring to, so I'm --

23 MS. RENDULICH: But this could apply to any type
24 of release.

1 MR. ROMAIN: Not necessarily.

2 MS. RENDULICH: If there has been something
3 dispersed into the atmosphere and it lands.

4 MR. ROMAIN: What we are talking about for this
5 plant are emissions -- This plant has emissions. You
6 burn coal, you have emissions. It's the level of
7 emissions that is at issue, how well those emissions are
8 minimized or controlled. Even with the best technology,
9 coal-fired power plants can release sulfur emissions into
10 the atmosphere, nitrogen oxide emissions to the
11 atmosphere, and particulate matter to the atmosphere.

12 It's a matter of appropriately controlling
13 those emissions to minimize the impacts. It isn't as if
14 there is a pollutant that is emitted during malfunction
15 that isn't present when the plant is operated normally.

16 MS. RENDULICH: We would like to know what
17 unpermitted chemicals are being emitted into the air.

18 MR. ROMAIN: I guess you really want to know
19 what chemicals are being put into the air?

20 MS. RENDULICH: What unpermitted.

21 MR. ROMAIN: This permit permits the emissions
22 into the atmosphere. It permits the emissions associated
23 with burning coal and handling coal.

24 MS. RENDULICH: It permits the emissions, but

1 what emissions are being permitted -- What emissions are
2 being expelled that are not permitted? Are you saying
3 that anything that goes into the air is allowed?

4 MR. ROMAIN: Well, if you are asking what the
5 rules are to limit the emissions, that's one question. If
6 you are asking what the contaminants that are being
7 emitted --

8 MS. RENDULICH: I'm asking what contaminants.

9 MR. ROMAIN: As I explained, contaminants that
10 we generally look at are sulfur dioxide, nitrogen oxides,
11 and particulate matter. There can be many components of
12 particulate matter, as I'm sure you are aware that mercury
13 is also present in the emissions from power plants that
14 burn coal.

15 MS. RENDULICH: We will not be protected with
16 the number of exemptions this permit allows. What good is
17 a permit if everything is exempt?

18 MR. ROMAIN: In fact, that's not correct. This
19 permit does establish stringent control requirements for
20 emissions of pollutants from this plant with the exception
21 of mercury.

22 MS. RENDULICH: There is all kinds of exemptions
23 in this permit. It says that various things are exempt.
24 Everywhere we look in the permit it says this is exempt,

1 that is exempt. Do you want us to record which things,
2 how many exemptions and where they are listed, and send
3 that to you?

4 MR. ROMAIN: Certainly the permit focuses on
5 the exemptions because that is one of the key things that
6 the permit has to address. We do not need to say over and
7 over, During normal operation, emissions shall comply with
8 limitations. You say that once and that deals with it.

9 So it's certainly one of the Act's topics
10 that Title V permits have to deal with is those
11 circumstances when other provisions apply other than those
12 limitations that normally apply, those requirements that
13 would normally apply.

14 MS. RENDULICH: It doesn't make sense that if
15 everything is exempt and the word exempt is throughout the
16 permit that this is a good permit.

17 MR. ROMAIN: I think you are making a
18 distinction between the permit and the applicable
19 regulations.

20 MS. RENDULICH: Okay.

21 MR. ROMAIN: You may be commenting that you do
22 not believe that the regulations are stringent enough and
23 that the regulations have too many exemption provisions.

24 MS. RENDULICH: That's good. I will go for

1 that.

2 MR. ROMAIN: But this permit is to enforce the
3 regulations or to carry out the regulations that are
4 currently in place. We are not able to eliminate
5 exemptions that are contained within the current
6 regulations for these plants.

7 MS. RENDULICH: Why?

8 MR. ROMAIN: Because we do not set the rules.
9 We simply enforce the rules.

10 MS. RENDULICH: Our research states that,
11 although Romeoville has decreased emissions for NOx, it's
12 annual NOx mass emissions have almost doubled since 1991.
13 We believe that this is particularly due to the facility's
14 increasing capacity. How has the EPA taken this into
15 consideration?

16 MR. ROMAIN: Your point is well taken. The
17 emissions at Romeoville have not decreased significantly
18 in terms of mass. However, my information suggests that
19 they are staying about still on a mass basis. So the
20 improvements that Midwest Generation has made in terms of
21 reducing the rate of emissions have been compensated for
22 or counterbalanced by increases in utilization. I'm
23 curious to see what will happen this year when Will County
24 Unit 1 and 2 are out of operation, that may show a more

1 significant reduction in the mass emissions.

2 In terms of evaluations that we do for
3 ozone, we look at worst-case emission rates in general
4 terms and evaluate emissions based on those levels of
5 emissions. We do not count on reductions in the rate of
6 emissions if there has not been a reduction in the mass of
7 emissions.

8 MS. RENDULICH: When combining the allowable
9 emissions from Joliet/Romeoville facility along with the
10 emissions from the other industries in the immediate area
11 and the unpermitted releases, what effect does this have
12 on our health?

13 MR. ROMAIN: They contribute to air quality.
14 And based on your belief on the levels of air quality, it
15 may contribute to unhealthy air. It may have a minimal
16 effect on the air quality.

17 MS. RENDULICH: The Romeoville facility will be
18 emitting lead, nitrogen oxides, sulfur dioxide,
19 particulate matter, carbon monoxide, etcetera. Why aren't
20 these types of facilities required to utilize the most
21 modern technology available?

22 MR. ROMAIN: Under the Clean Air Act, as
23 everybody knows, the understanding was that these
24 facilities would be upgraded over time as they were

1 modified. That hasn't happened. There are now efforts
2 underway to rectify that. There are really two prongs of
3 that effort. One prong is the "Clear Skies," which
4 basically says we will ignore the past and try a different
5 approach. The other approach is an initiative that has
6 been taken on by USEPA's enforcement staff to evaluate
7 what has actually occurred at those power plants and to
8 identify power plants that have been modified that should
9 be treated as new sources.

10 So actions are underway to address the fact
11 that power plants have not been upgraded over the last
12 30 years and that there are essentially the grandfathered
13 power plants are still the grandfathered power plants.
14 That's not to say that there haven't been reductions in
15 emissions. In fact, in Illinois there have been
16 substantial reductions in emissions; but they haven't
17 necessarily been uniformly distributed, and there have
18 been these things about changing emission rates versus
19 mass of emissions.

20 On an overall basis when you look at
21 emissions in Illinois, you find out that over the last
22 couple of years since 1999 to the present sulfur dioxide
23 emissions have been reduced by half, which is a
24 substantial number. Nitrogen oxide emissions have been

1 reduced by a third. As I said, they have be going down
2 further.

3 So even though the Clean Air Act has not
4 achieved its objective with sources being forced to use
5 modern technology over time, there still have been
6 substantial reductions in emissions from coal-fired power
7 plants.

8 MS. RENDULICH: Relief valves and malfunctions
9 have been occurring more often in the last two years than
10 in the past. This is pertaining to the Romeoville
11 facility. We live in that area and we can hear it and we
12 can see it when it happens. How are we being protected?

13 MR. ROMAIN: When people address relief valves,
14 I assume you are referring to steam relief valves that are
15 deducing pressure in the boiler?

16 MS. RENDULICH: Correct.

17 MR. ROMAIN: Steam relief valves are
18 nonsignificant sources of emissions and the effect of a
19 steam relief valve in going off is a noise-related
20 problem, there are regulation that address noise. You may
21 need to pursue with Midwest Generation whether additional
22 measures should be taken to install mufflers on relief
23 valves, and that is certainly something that I will take
24 back to the Agency for further investigation whether the

1 frequency of emergency reliefs of steam valves is one that
2 warrants further investigation.

3 I'm also curious whether the shutdown or
4 the temporary outage of boilers 1 and 2 at the present
5 time is also some factor that has been involved in the
6 higher level of steam releases that you have identified.

7 MS. RENDULICH: How long have the 1 and 2 been
8 shut down?

9 MR. ROMAINE: Officially they have shut down on
10 January 1, 2003. I assume they probably shut down a
11 little before then.

12 MS. RENDULICH: Well, a lot of these releases
13 were going on a year and two years ago. So all four were
14 active at the time had been active. They only shut down
15 in the last eight months or so.

16 When the valves are blown, isn't the
17 machinery being pushed to the limit and beyond?

18 MR. ROMAINE: No. In fact, the purpose of the
19 safety valve is to keep the steam system from being pushed
20 beyond its safe operating levels.

21 MS. RENDULICH: Doesn't that, when that -- When
22 the equipment, when the pressure is too heavy, it pops the
23 relief valve so that the equipment doesn't blow; is that
24 correct?

1 MR. ROMAIN: I would not express it in those
2 terms. I would express it that when the steam pressure is
3 at a level that is of concern that is inadvisable to go
4 beyond, that is, approaching the safety margin of the
5 equipment, actions taken to release the pressure, so it
6 doesn't get at a level where the steam pressure is
7 dangerous.

8 MS. RENDULICH: If these things are blowing,
9 then if they are blowing that often and it is shutting
10 down so that it's not a safety issue, then they are still
11 pushing the limits because it shouldn't get to that point
12 where these things are blowing. I think I'm losing you or
13 I'm losing me.

14 MR. ROMAIN: The system is doing its job. I
15 don't know the reasons that are leading to the need to
16 operate the steam releases, so I'm not in a position to
17 comment whether it is a set of unique circumstances or
18 some sort of operating problems that Midwest Generation is
19 experiencing or some sort of chronic problem of operation.

20 MS. RENDULICH: Also, I'm a little bit confused.
21 I thought this permit was encompassing all -- all
22 different divisions, which would include the Illinois
23 Pollution Control Board. And isn't that who handles
24 noise?

1 MR. ROMAIN: The Illinois Pollution Control
2 Board is not part of the Illinois EPA. The Illinois
3 Pollution Control Board is the Agency in Illinois that
4 adopts emission standards, discharge standards, and noise
5 standards.

6 One of the separation of powers that's
7 created by the Environmental Protection Act is that we
8 regulate sources, but we do not adopt the regulations that
9 we enforce. They are adopted by a separate independent
10 body. We quite often propose rules to Pollution Control
11 Board to carry out certain mandates or to achieve certain
12 objectives, but the Pollution Control Board has the
13 authority for adopting those rules.

14 When there are enforcement actions that
15 cannot be resolved through settlement, one of the
16 jurisdictions that we can take them to for adjudication is
17 the Illinois Pollution Control Board. In terms of noise,
18 if a noise case was brought and could not be settled, it
19 could be taken before the Pollution Control Board for them
20 to decide whether a violation occurred or what remedy was
21 appropriate for the violation that occurred.

22 MS. RENDULICH: We are concerned with the safety
23 as there have been many other explosions in the area. Are
24 we protected against explosions for this plant?

1 MR. ROMAIN: That is not within our area of
2 expertise in air. Safety issues are generally dealt with
3 by the Occupational Safety Health Administration. My
4 personal opinion is that certainly power plants involve
5 large, heavy equipment. They involve steam lines. It is
6 a place that can be hazardous for workers if they do
7 things that are inappropriate, if they are not properly
8 trained. And even if they are properly trained, accidents
9 can occur.

10 In my experience, I have not seen accidents
11 at power plants that pose significant risks to the general
12 public.

13 MS. RENDULICH: These questions may then not be
14 directed to you, I'm not sure, so I will ask them anyway
15 because I have them down here. Why aren't the statutes
16 concerning the noise issues being addressed in this
17 permit?

18 MR. ROMAIN: Noise is not a topic that's
19 addressed by the Clean Air Act. It's a separate set of
20 regulations under the air Pollution Control Board.

21 MS. RENDULICH: Do we have rights to protect us
22 against malfunction noise during the night?

23 MR. ROMAIN: I can certainly tell you that you
24 have protections under nuisance provisions to protect you

7 MS. RENDULICH: How does --

11 MS. RENDULICH: Okay. How does the averaging in
12 combination with the credits affect the environment?

15 MS. RENDULICH: Pollution.

24 Averaging credits are used to address

1 things like acid rain, which is a problem due to power
2 plants in the Midwest and some plants further east on the
3 quality of water in the Appalachians, the Adirondacks,
4 northern Canada. It's also used to address impacts on
5 smog, which is again is a pollutant that extends over the
6 greater Chicago area and is not directly attributable to
7 the power plant next door causing smog. In fact, due to
8 the photochemical reactions that are involved with forming
9 the ozone in the atmosphere, power plants have impacts on
10 the ozone that are miles downwind of the power plant.

11 People in Will County don't experience
12 ozone from sources in Will County, they experience high
13 levels of ozone and smog from sources that are to the east
14 or to the south. They may be impacted by the St. Louis
15 plume or from power plants in the Springfield area.

16 Likewise, in terms of the issues that are
17 being addressed by the "Clear Skies" program, in reducing
18 fine particulate matter emissions, that is a regional
19 problem. Reductions are needed in overall loadings.
20 Sulfates, nitrates which are the fine particles again,
21 aren't directly emitted from the power plant, they form in
22 the atmosphere over time. It's a downwind phenomenon or
23 transport phenomenon.

24 MS. RENDULICH: Are the allowable emission

1 standards based on population?

2 MR. ROMAIN: Yes and no. The Pollution Control
3 Board when they adopted standards for power plants did set
4 more stringent limitations for sulfur dioxide emissions
5 for power plants in Chicago, and Peoria, and other major
6 metropolitan areas. So in that sense, power plant limits
7 are more stringent in the urban areas. Are they
8 significantly more stringent at this point? In terms of
9 sulfur dioxide, yes. But Midwest Generation is operating
10 well below those limits, but that's not really a relevant
11 distinction.

12 MS. RENDULICH: With all the new growth in Will
13 County, has a study been done for population in the Will,
14 Romeoville area?

15 MR. ROMAIN: What sort of study are you
16 referring to?

17 MS. RENDULICH: Population study. Population
18 study. Emission study. With all the industry that's in
19 that area, not only this coal power plant but all the
20 other industry that's highly condensed right in this
21 particular area.

22 MR. ROMAIN: Well, when we conduct studies at
23 this point for air quality, we conduct regional studies.
24 When we look at the Chicago area, we are actually looking

1 at a six-county area plus surrounding counties. So in
2 terms of air quality, we have examined changes in sources
3 throughout the metropolitan area.

4 MS. RENDULICH: But does that include the
5 Romeoville/Will County area?

6 MR. ROMAINE: Yes.

7 MS. RENDULICH: It does. And when was the last
8 study done? Do you know?

9 MR. ROMAINE: Oh, the last study would have been
10 the, well, the attainment demonstration for the ozone air
11 quality standard, and we have to show that within ten
12 years on air quality standard, I think by 2007. In
13 addition, we did an evaluation of the impact on ozone air
14 quality of the various new power plants that have been
15 proposed, and that was completed earlier this year.

16 Those studies both show that we can attain
17 the ozone air quality standard based on the one-hour
18 standard and that the new power plants proposed would not
19 interfere with containments of the one-hour ozone
20 standard.

21 MS. RENDULICH: Has there ever been a study that
22 is just for a two- to three-mile radius of a facility like
23 this?

24 MR. ROMAINE: I'm not familiar with such a

1 study. For example, the much quoted Harvard Study extends
2 out for an area that extends from Milwaukee, St. Louis,
3 Cincinnati. You look at the impacts of power plants on
4 broad regions.

5 MS. RENDULICH: Can we get a study that would
6 encompass the two- to three-mile radius of these
7 facilities?

8 MR. ROMAINE: Anything is possible.

9 MS. RENDULICH: Can we request one from you?

10 MR. ROMAINE: You could request it.

11 MS. RENDULICH: Can we request it now?

12 MR. ROMAINE: I don't think such a work study
13 would be productive given the nature of the dispersion
14 from these power plants. These power plants are a small
15 contributor to the emissions in the air quality. In terms
16 of looking at air quality as an overall matter, there are
17 much more effective tools. There are other ways of
18 evaluating. Certainly a much more meaningful study is
19 USEPA's evaluation of toxic -- I mean of toxic urban air
20 quality or the urban air quality study that USEPA is
21 performing to address the complex nature of urban air
22 quality, which is affected certainly by global sources,
23 industrial sources, area sources, and is the result of all
24 the various emitting activities in urban areas.

1 MS. RENDULICH: Just one other comment I have.
2 Somewhere in the back of the permit they mention that
3 there was no dust being emitted from these plants, from
4 the facilities, from at least our facility. I didn't
5 check the other ones. But that kind of struck me kind of
6 strange because my furniture in my deck and my house is
7 covered with dust all the time. And that's the only smoke
8 stack thing that's really close and adjacent to my home.
9 So when I go out there and I touch my patio table, it's
10 black. It's pure black. And this is about every two or
11 three days, one or two days. So I don't understand why
12 they say that there is no dust being emitted from the
13 plant, and I live about two miles from the plant.

14 MR. ROMAIN: I can't comment on the statement
15 of no dust. In terms of being located two miles from the
16 plant, seeing something that's pure black, there certainly
17 are other things that contribute to fallout and dust in
18 the atmosphere besides power plants. I don't know where
19 you live and what else is nearby.

20 MS. RENDULICH: I'm probably closer than two
21 miles. If you are -- If you do the crow fly situation,
22 I'm probably a mile, mile and a half.

23 MS. STARK: Yes. About a mile. She's directly
24 behind it.

1 MS. RENDULICH: I'm directly behind it.
2 Everybody in the neighborhood is having this problem.
3 It's just not me. We are go out there and our cars are
4 covered with strange colors on different things. Somebody
5 even said there was orange, something orange one day.
6 Somebody said there was something green one day. It
7 happens often. It's been happening more in the last two
8 years. But it seems to me there should be something else
9 in that permit for dust. And I don't think this is
10 stringent enough for pollution controls, otherwise we
11 wouldn't have this on our house, and on our cars, on our
12 furniture.

13 MR. ROMAIN: Well, I guess in terms of what you
14 are describing in terms of strange colors and changing
15 colors, that strongly suggests that there would be some
16 other source or causation for this phenomenon because
17 power plant emissions don't change.

18 MS. RENDULICH: Don't change colors?

19 MR. ROMAIN: Don't change colors.

20 MS. RENDULICH: So the black stuff is from the
21 plant and any other color would not be?

22 MR. ROMAIN: If it sometimes black and
23 sometimes green and sometimes --

24 MS. RENDULICH: Well, I haven't had green or

1 orange. Someone else said that. I have black. Most of
2 the people in our direct area closer to the plant, they
3 have black, too.

4 MR. ROMAIN: I don't know.

5 MS. RENDULICH: Apparently there is not enough
6 pollution controls to keep that stuff down. Thank you.

7 HEARING OFFICER MATOESIAN: Thank you,
8 Ms. Rendulich.

9 The next speaker is Mr. Keith Harley.

10 MR. HARLEY: Good evening. For the record, my
11 name is Keith Harley. I'm an attorney at the Chicago
12 Legal Clinic. I'm here tonight representing Citizens
13 Against Ruining the Environment, although based on what
14 I've heard I'm almost positive they don't need an
15 attorney, but here I am nonetheless.

16 There are some issues that I would like to
17 address tonight. I will be submitting detailed written
18 comments about the proposed permits. The first issue I
19 want to address tonight is on the issue of compliance. I
20 would like to point out for the record that there is
21 evidence of significant excess emissions from these
22 facilities.

23 For example, from Illinois EPA's own
24 records we have information about one of the four boilers

1 at the Will County facility. Actually, I believe it's
2 boiler No. 4, which is one of the still operating units.
3 We have information relating to opacity at the facility.
4 For a three-month period of time between July and
5 September 2002, during this period of time it appears from
6 records acquired from IEPA based on emissions monitoring
7 at the facility, that during this three-month period of
8 time there were 48 opacity exceedances from this one unit.

9 Contrary to what has been represented
10 tonight, I believe there is evidence that the opacity
11 violations are indicators of significant problems from
12 time to time at this facility that may lead to not only
13 violations of permit conditions but also to the kinds of
14 impacts that local residents have been suggesting.

15 For example, I would call your attention,
16 Mr. Hearing Officer, to the date of July 15, 2002. On
17 July 15, 2002, according to the emissions monitoring
18 information derived from the company itself, there were
19 nine separate opacity violations. The facility continued
20 to operate during the entire period of time. The first
21 opacity violation occurred at 3:12 p.m. The last opacity
22 violation was recorded at 11 p.m. During this period of
23 time, the facility opacity exceeded its permitted standard
24 at one point by more than two times its permit limit of

1 30, which is already a fairly generous standards.

2 Mr. Hearing Officer, I would also call your
3 attention to the date of July 17, 2002, when from
4 7:06 a.m. until 10 o'clock p.m. the Facility continued to
5 operate despite nine opacity violations on that day.

6 I would also call your attention to
7 September 19, 2002, when the facility continued to operate
8 despite incurring opacity violations from 7 a.m. in the
9 morning until after 10 o'clock that night.

10 These three dates in combination represent
11 less than half, though, of the total of the opacity
12 exceedances which occurred at the facility during this
13 three-month period of time from this one generating unit
14 out of four.

15 Now, this is legally relevant. The law
16 requires that in order to obtain a Title V permit, the
17 applicant must either certify it is in compliance with
18 conformance standards or enter into a schedule of
19 compliance to meet these standards, as you well know, at a
20 minimum requires the applicant to fully disclose all of
21 its exceedances and justifications for those exceedances
22 and review the applications for these facilities; and we
23 believe they are deficient in this manner.

24 As part of these proceedings, Citizens

1 Against Ruining the Environment specifically request the
2 Illinois Environmental Protection Agency to disclose all
3 information in its files about any excess emissions from
4 these facilities since Midwest Generation took over as
5 operator in 1999.

6 To this end, Mr. Hearing Officer, on
7 August 14, 2003, I sent two separate Freedom of
8 Information Act requests to the Illinois EPA asking for
9 information in its possession about excess emissions from
10 the Joliet -- Joliet 29 and Will County facilities.
11 Mr. Hearing Officer, I would ask at this time that these
12 two letters be entered as exhibits in these proceedings.
13 May I approach?

14 HEARING OFFICER MATOESIAN: Yes, you may.

15 Before I do that, I just want to enter a
16 copy of the proposed CAAPP permit for the Joliet plant as
17 Agency Exhibit No. 1. And then the Will County proposed
18 CAAPP permit as Agency Exhibit No. 2, and then I will
19 enter these letters as Exhibits 3 and 4.

20 (Documents marked as Exhibit Nos. 1,
21 2, 3, 4.)

22 HEARING OFFICER MATOESIAN: Okay. Go ahead.

23 MR. HARLEY: Mr. Hearing Officer, my next
24 comment is not one I was planning to make prior to this

1 evening; but based on the testimony of people who live
2 immediately adjacent to this facility about the conditions
3 which exist and which they attribute to the facility, I
4 wish to point out that under the Clean Air Act,
5 Section 1.12(k), I believe it is, the facility does have
6 an obligation to prepare an accident prevention and
7 response plan.

8 Cursory review of the draft permit, there
9 is no reference to such an accident prevention or response
10 plan. It may be necessary to amend the permit to reflect
11 this plan and perhaps to reflect the kind of problems the
12 local residents are experiencing on a regular basis based
13 on the operation of the facility.

14 Another issue I wish to address is in light
15 of the excess emissions from the facility and the
16 testimony we have heard tonight about the direct impact on
17 local residents, I would like the IEPA as part of its
18 deliberation to consider why these facilities are not
19 subject to enforcement actions. They claim that these
20 violations occur during periods of startup, shutdown, and
21 malfunction does not account for how protracted these
22 periods of excess emissions are as suggested by the
23 information that I have previously provided.

24 Consequently, the members of CARE request

1 that Illinois EPA as part of its deliberations on these
2 Title V permits consult with the Illinois Attorney
3 General's office and review excess emission reports for
4 all Midwest Generation facilities to determine whether or
5 not these excess emissions are legitimately within the
6 startup, shutdown, and malfunction exceptions. This is
7 germane to the Title V permitting process. For those
8 exceedances which are not within the exceptions, IEPA must
9 require Midwest Generation to create and implement a
10 schedule of compliance as part of receiving this Title V
11 permit as the law requires.

12 Moreover, while it is true that the
13 Illinois EPA cannot eliminate exemptions which are created
14 by Pollution Control Board rule, it is well within the
15 discretion of this Agency to tighten this permit, to
16 remove all subjective language, to establish verifiable
17 reliable measures, to ensure this facility, that these
18 facilities are not using startup, shutdown, and
19 malfunction to excuse violations. That is not the
20 intention of the startup, shutdown, malfunctions
21 exemptions, to excuse violations.

22 Third issue. It is critically important to
23 determine if major modifications have occurred at these
24 coal-burning power plants as indicated by the

1 representative from the Illinois Attorney General's
2 office. If modifications have occurred that trigger New
3 Source Review, this is directly relevant to the emission
4 standards that this source must meet which, in turn,
5 should be reflected in the Title V permit.

6 As part of the record, I wish to ensure
7 that Illinois EPA is aware of the fact that on
8 February 21, 2003, Midwest Generation received a request
9 for information regarding past operations, maintenances,
10 and physical changes at its coal plants from the United
11 States Environmental Protection Agency. This is based on
12 Midwest Generation's own filings with the Securities
13 Exchange Commission.

14 Tonight I am specifically requesting on
15 behalf of CARE that the Illinois Environmental Protection
16 Agency acquire records provided to USEPA by Midwest
17 Generation regarding this federal investigation to inform
18 this permitting process. I would also ask, Mr. Hearing
19 Officer, that the Agency take notice of the fact that a
20 May 1996 article, published in Power magazine, makes
21 reference to a 20-week life extension project that took
22 place at the Joliet 9 facility in 1996. This life
23 extension project included relining 3,830 heat exchanger
24 tubes. In my written comments, I will make a copy of that

1 article available for consideration by the Agency to
2 determine if modifications have occurred that would
3 subject this facility appropriately to new source emission
4 standards, which would lead, in turn, to profound public
5 health benefits.

6 And the fourth issue I would address
7 tonight has to do with the issue of hazardous air
8 pollutants. There are many hazardous air pollutants that
9 are emitted from these facilities including mercury, a
10 persistent biocumulative and highly toxic pollutant.
11 According to Midwest Generation's own toxic release
12 inventory disclosures, these facilities also emit
13 hazardous air pollutants like hydrochloric acid, hydrogen
14 fluoride and barium, as well as smaller amounts of other
15 hazardous air pollutants, like dioxin, lead, manganese,
16 and vanadium.

17 While the draft permit does require the
18 facility to report these emissions, it imposes no
19 substantive standards or requirements related to the
20 control of these hazardous air pollutants. IEPA could
21 perform an enormous benefit for residents throughout this
22 state, specifically for the residents who are present here
23 today and their neighbors, by using its authority under
24 415 Illinois Compiled Statutes, 39.5, 19(a) to develop

1 standards to control hazardous air pollutants from
2 Illinois coal plants. Moreover, under this section,
3 regulated entities like Midwest Generation also have the
4 ability to propose standards that control HAP emissions.
5 IEPA could use this provision to ask facility operators
6 like Midwest Generation to develop standards that control
7 HAPS, thus achieving an enormous public health benefit.
8 Finally, I do wish to conclude by addressing the issue of
9 waste that may be combusted at these facilities in
10 addition to coal. I wish to address three, very quickly,
11 three issues that may be germane, relevant to the Agency
12 consideration as to whether or not this is an appropriate
13 practice within the meaning of operational flexibility.

14 First, operational flexibility was never
15 intended to help regulated entities avoid the requirements
16 to obtain valid local siting approval as waste burning
17 facilities. Under 415 Illinois Compiled Statutes 39.2, if
18 these facilities begin to burn waste and are properly
19 regarded as regional pollution control facilities, they
20 should be required to undergo local siting review pursuant
21 to 39.2.

22 Second, operational flexibility was never
23 intended to allow facilities which decide to modify and
24 burn waste to avoid the requirements which may apply under

1 Section 129 of the Clean Air Act relating to municipal
2 waste combustors. If these become waste burning
3 facilities, their emissions should be regulated; and these
4 emissions would include dioxins. They would include
5 furans, mercury, cadmium, and lead.

6 I also believe, Mr. Hearing Officer, that
7 under Section 129 there should be a consideration of
8 alternative siting standards as well for facilities that
9 decide in midstream to begin burning waste. And finally,
10 even if it is a smaller facility burning waste, there may
11 be a maximum achievable control technology standard for
12 smaller waste-burning facilities that may also become
13 relevant during the life of this facility.

14 Thank you for your consideration of
15 these comments.

16 HEARING OFFICER MATOESIAN: Thank you,
17 Mr. Harley.

18 And the next speaker is Mr. Bruce Nilles.

19 MR. NILLES: Good evening. My name is Bruce
20 Nilles. Tonight I'm here on behalf of the Sierra Club.
21 We have over 700 members across the United States, 27,000
22 members here in Illinois.

23 Our position tonight is it's premature to
24 be issuing this permit. First, this is one of the largest

1 sources of air pollution in the entire greater Chicago
2 region. State law prohibits from allowing pollution
3 levels at a level that causes threats to human health and
4 the environment. As the Attorney General said,
5 35 Illinois Administrative Code, Section 201.102, you
6 don't have to allow air pollution that causes large
7 amounts of mercury, soot, lead, arsenic, and smog to be
8 threatening the health of the residents and the
9 environment around the greater Chicago region.

10 We know that mercury is a persistent
11 neurotoxin. We also know that it does land very close or
12 a large amount of it does land close to where it is
13 emitted. So the question before about does mercury impact
14 the Des Plaines River and other water bodies here in Will
15 County, the answer is yes. USEPA studies show that
16 between 7 and 40 percent of the mercury coming out of that
17 stack, on those stacks, hundreds of pounds every year, end
18 up in the water bodies within 30 miles of the smoke stack.
19 So we know the mercury from these smoke stacks does
20 directly impact the water bodies here in Will County.

21 And why is that important? Well, about
22 7 percent of women of child bearing age have levels of
23 mercury in their body that are unsafe, which means they
24 are passing mercury along to their children. The mercury

1 we know is a neurotoxin, causes brain damage, learning
2 disabilities, and a whole range of other problems. And
3 the children are exposed because their mothers eat fish
4 that's contaminated. And we know in Illinois that every
5 single river, stream, lake, and water body in the state
6 has an advisory against eating fish because of the mercury
7 pollution. And over 80 percent of that mercury pollution
8 comes from coal-fired power plants.

9 We also know that they are one of the
10 largest sources of soot emissions, the tiny particles that
11 cause premature death. They cause more death every year
12 than AIDS and breast cancer combined, approximately 50,000
13 people in the United States. And we know that dozens here
14 in the greater Chicago area are dying from the soot
15 emissions from the coal-fired power plant owned and
16 operated by Midwest Generation including the two that we
17 are talking about here tonight.

18 There is no question that lead from
19 coal-fired power plants is a serious neurotoxin again
20 harming our most vulnerable, children. There is no
21 question that the arsenic coming out of the coal-fired
22 power plant presents a human health hazard.

23 And finally, and the most sort of timely
24 issue, is the issue of smog pollution. With the heat wave

1 that's been plaguing the entire area, we have seen very
2 high levels of smog in this area throughout the greater
3 Chicago area. These plants that we are talking about
4 tonight are one of the largest sources contributing to
5 that smog.

6 So it's hard to imagine that these are not
7 major sources of air pollution that are harming human
8 health and the environment and that you lack authority to
9 do something about it. As the Attorney General said, you
10 do; and we urge you to do that, use that authority in
11 issuing these permits.

12 There was also some discussion about the
13 fact that there would be permit violations, we understand,
14 relating to opacity, which were not addressed by this
15 permit. Without reiterating the opacity violations which
16 Keith Harley mentioned, I would turn to the point of New
17 Source Review violations. Have there been any
18 investigations, any detailing of all the modifications
19 that have happened in this facility since 1976?

20 MR. ROMAIN: Is that a question?

21 MR. NILLES: Yes.

22 MR. ROMAIN: No. As you are aware, that is a
23 matter that the USEPA is investigating. It's pursuing it
24 with Commonwealth Edison and Midwest Generation. In terms

1 of utility enforcement initiative, USEPA is taking the
2 lead on the initial cases for New Source Review violations
3 with coal-fired power plants.

4 MR. NILLES: That investigation began in
5 February. Here we are in August.

6 MR. ROMAIN: That investigation did not begin
7 in February.

8 MR. NILLES: The investigation began before
9 that?

10 MR. ROMAIN: Certainly.

11 MR. NILLES: Are you without authority to do
12 your own NSR investigation to protect the residents of
13 Chicago?

14 MR. ROMAIN: USEPA has been investigating the
15 violations at the Baldwin power plant for over three or
16 four years. As you are aware, these types of
17 investigations are not quickly resolved. USEPA has
18 recently taken on the task of looking at Midwest
19 Generation's operations. But it's only after they have
20 made substantial success in pursuing the trial cases that
21 were pursued against other power plants.

22 MR. NILLES: USEPA is also on record saying
23 their hands are full, we really need help from the states.
24 They have made those statements. So we would urge you,

1 we, the Sierra Club, we would urge you to complete that
2 investigation and to document every single modification.
3 Now that we have a trial judge in the District of Ohio
4 spelling out that replacement of the heater plant of --
5 heater pipes, replacement of economizers, is the kind of
6 things that for years utilities have said are routine. We
7 urge you to make that list available so that we, the
8 public, can have a sense of what has been going on at this
9 facility; and you can be better informed as to what is the
10 magnitude, if there are any violations, and whether or not
11 they need to be addressed as part of this Title V permit.

12 MR. ROMAIN: I appreciate those comments. As
13 you are aware, that is only a recent case that we did not
14 have the ability to rely upon until last month.

15 MR. NILLES: That is correct. But we have --

16 MR. ROMAIN: So we have been waiting four
17 months or four years for the USEPA to get to this point.
18 I'm just saying, I agree with your points. And certainly
19 we have made -- USEPA has made substantial success in
20 this regard that does allow us to now reevaluate what the
21 State's role is in this New Source Review component of
22 dealing with coal-fired power plants.

23 But I think it's appropriate for the public
24 to understand that this is not something that we were in a

1 position to do given our own problems with constraints and
2 the fact that we are dealing with federal regulations and
3 complex matters that we believe USEPA has been very
4 effective in resolving the matter that probably the State
5 of Illinois under previous administrations may not have
6 been able to achieve.

7 MR. NILLES: I hope you are not taking the
8 position that you have no authority to enforce the State
9 Implementation Plan that, of course, is the SIP that is at
10 issue in the New Source Review violations. It's all
11 federal law.

12 MR. ROMAINE: I'm afraid, no. Your law is
13 incorrect. We are not dealing with SIP plans subject to
14 new source violations for the most part. We are dealing
15 the federal Prevention of Significant Deterioration rules,
16 which is, in fact, a federal regulation and is not part of
17 Illinois.

18 MR. NILLES: But you have the authority to
19 enforce those regulations, there is no ambiguity about it,
20 the ability of IEPA to enforce New Source Review laws.

21 MR. ROMAINE: That's correct. Just don't
22 mischaracterize them as part of the SIP plan.

23 MR. NILLES: Pieces of them are. Pieces of the
24 NSR rules are in the SIP.

1 So I guess to wrap up that piece, I would
2 urge the Hearing Officer and the IEPA to require Midwest
3 Generation to fully disclose all modifications that have
4 occurred at these two facilities since 1976 when the New
5 Source Review rules kicked in, to make that information
6 available to the public, and to do an honest assessment of
7 has there, in fact, based on the recent rulings on Ohio
8 Edison being in violation of the New Source Review rules
9 that would trigger the obligation of Midwest Generation to
10 finally, decades later, clean up their plants, and assure
11 they no longer have a threat to the human health and the
12 environment.

13 The third point is trash burning. This is
14 an issue that's now been coming up at several of Midwest
15 Generation facilities. What is going on here? Are we in
16 the process of allowing Midwest Generation to become --
17 operate a suite of incinerators throughout northeast
18 Illinois? Was this ever put out for discussion that there
19 would be potentially thousands of tons of trash being
20 burned in their coal-fired power plants? Are they trying
21 to sneak this under the radar screen?

22 We would urge you to make it very clear in
23 these permits you will not allow them to be burning any
24 trash until you have conducted an independent assessment

1 of what would it mean to be burning thousands of tons of
2 trash throughout northeast Illinois and ensure that, as
3 Keith Harley mentioned, they comply with the Clean Air Act
4 Section 129 and local siting requirements. This is a huge
5 policy decision and they may be in financial straits and
6 be looking for every opportunity to make money. But we
7 should not be jeopardizing public health and allowing them
8 to be burning large amounts of trash here in northeast
9 Illinois.

10 MR. ROMAIN: We do not intend to allow Midwest
11 Generation to burn trash as you have characterized it.

12 MR. NILLES: Can you clarify what you are
13 proposing to allow them to burn? I believe it is tires.
14 I believe it is plastics. I believe it is waste oil. The
15 list goes on. In my definition, that is waste.

16 MR. ROMAIN: However you said trash.

17 MR. NILLES: It says nonhazardous waste.

18 MR. ROMAIN: When you are characterizing the
19 burning of trash, you are implying municipal hazardous
20 waste -- or municipal waste. And this is not intended to
21 allow the facility to burn trash.

22 MR. NILLES: Where does it say they can't burn
23 trash?

24 MR. ROMAIN: Well, that's a good point. I'm

1 not disagreeing with the clarification. But the point you
2 were making suggesting that this permit was crafted to
3 allow them to burn trash is not correct. So there is
4 certainly potential for the misunderstanding of that term.

5 MR. NILLES: It is your intention to allow them
6 to burn trash?

7 MR. ROMAINE: No.

8 MR. NILLES: Will you clarify in the final
9 permit they may not burn municipal solid waste?

10 MR. ROMAINE: Yes.

11 MR. NILLES: In addition, we would ask they not
12 to be allowed to burn tires, any kind of nonhazardous
13 waste and waste oil and the whole range of other things --

14 MR. ROMAINE: As I said in terms of those other
15 materials, the intent is to allow Midwest Generation to
16 burn fuel-quality materials that are cleaner than coal.
17 And tires are cleaner than coal, so tires in that sense
18 are a preferred fuel for this plant as compared to coal.

19 MR. NILLES: We disagree.

20 MR. ROMAINE: I would be interested in your
21 technical information.

22 MR. NILLES: We would be very interested in
23 making public the information so that we could respond to
24 accordingly to why you think burning trash -- burning

1 tires and burning waste oil in the kinds of volume that
2 would be permitted to the maximum potential what the air
3 quality impacts of that would be comparing that to burning
4 coal. Once that information is available, then, of
5 course, we would have a discussion.

6 MR. ROMAIN: In terms of information of Baldwin
7 that burns tires, the testing at Baldwin shows that
8 burning tires has reduced emissions.

9 MR. NILLES: Of all hazardous air pollutants?

10 MR. ROMAIN: I shouldn't say -- No. In terms
11 of criteria air pollutants, and tires have lower ash
12 content and made from refined petroleum product, and
13 should have lower levels of hazardous air pollutants.

14 MR. NILLES: Should have or do have?

15 MR. ROMAIN: In terms of mercury, it's lower.

16 MR. NILLES: How about the other air pollutants?

17 MR. ROMAIN: My understanding in terms of
18 review of tires is that tires have lower metals except for
19 zinc and coal.

20 MR. NILLES: Okay. It would be very helpful and
21 we would ask that before you make a final decision on this
22 permit that the public be given honest information about
23 what are all the air pollutants that could be emitted if
24 they are allowed to burn as much tires as you are

5 So I guess I will close with that. And
6 again thank you very much for the opportunity to comment
7 on these two permits. We will be submitting additional
8 testimony in writing before September 28.

11 And the next speaker is Verena Owen.

19 How do I summarize six hearings in two
20 weeks? I attended four of them. And I think the
21 impression that I have was a huge disconnect between IEPA
22 and the public it serves, and I think in this hearing
23 specifically this came out very clearly.

1 Title V permits, otherwise we wouldn't be here. We are
2 also interested in past performance. We are interested in
3 inspection reports. We are interested in ash ponds. We
4 are interested in water permits. However, this
5 information is not available. And with all due respect,
6 sometimes at these hearings we ask you that specific
7 question and you seem unprepared for us especially for the
8 local people. This is a concern of them, they want an
9 individualized permit. They want an individual hearing.
10 I very much object having Romeoville and Joliet lumped
11 into one hearing. I have said this before. I think it's
12 grossly unfair to the neighbors of those plants to do it
13 like this.

14 In addition, and I speak for Waukegan,
15 because you guys were just there, the information that was
16 supposedly in the information depository, as little as it
17 is because it's just the application, no instruction on
18 what to do on it, no idea on how to review a permit. And
19 Waukegan, this information is not even available. I was
20 there yesterday trying to find the Waukegan permit and
21 application and it's not there. And I don't know if it's
22 Joliet or Romeoville, but I think there was another
23 incident where this does not work. So what little you
24 have to offer doesn't even come through.

1 And the disconnect, it's funny, I feel much
2 better and much safer when I hear Keith Harley talk than
3 when I hear you talk on trying what almost sounds to me
4 like you are defending, that you are defending the
5 industry and not protecting us, and you are minimizing
6 peoples' concerns.

7 I think some of the answers that you gave,
8 especially to Ellen, were unfair and minimizing. She
9 asked questions about hazardous materials emitted. You
10 said, well, a little bit of the nickel, a little bit of
11 mercury. I don't know about Romeoville and Joliet, but I
12 do know Waukegan emitted in 2000 360,000 pounds of
13 hazardous material. Now that is a number that would make
14 some sense to the public, so please be straightforward and
15 honest with your answers.

16 You issued 23 permits to the biggest
17 polluters of this state six years late and then all at
18 once. There was no reason whatsoever to do it like this.
19 And as a matter of fact, I think the process was grossly
20 unfair. As I pointed out before, I think all these
21 permits require public scrutiny. And not only this, but
22 they all deserve individual attention by your Agency. We
23 don't want blueprint copies of something that was cooked
24 up. We want individualized permits that refer to a

1 source.

2 Of the permits I had a chance to review,
3 they all suffer from a long list of errors. They contain
4 undefined terms. They limit practical enforceability.
5 They do not contain enough monitoring to assure
6 compliance, the sources of the compliance, and the
7 compliance plan. And all of these are in violation of
8 Section 70. So, yes, while we do want CAAPP permits, we
9 will never ever -- we will not agree to anything
10 substandard.

11 So I will, as usual, submit written
12 comments on this. And thank you very much.

13 HEARING OFFICER MATOESIAN: Thank you, Ms. Owen.

14 That is all the cards that have been filled
15 out for speakers. Is there anyone else who wishes to ask
16 another question or comment? Just approach the podium.

17 MS. DRALLE: Good evening. My name is Ann
18 Dralle. I'm a county commissioner for the County of Will.
19 I do have some concerns, obviously, that were raised
20 tonight. I understand the position that you are in. We
21 do need electricity. We do need facilities as Midwest
22 Generation, but we do need them to act appropriately and
23 to comply with whatever guidelines are available that must
24 introduce the best available technology into the County of

1 Will.

2 Our population is increasing. We have
3 projections up to one million people. Our businesses are
4 growing. Residents are coming in. And there is an
5 obligation that I believe Midwest Generation, as well as
6 the EPA, has to meet for the residents of Will County.
7 And if there are some issues that people are requesting
8 disclosure of modifications at Midwest, I do believe that
9 needs to be released. I would also kindly request that
10 the land use department at the County of Will be forwarded
11 all information on the operations and the permit requests
12 of Midwest Generation. And I can give you that address
13 after the meeting. Those are my comments.

14 HEARING OFFICER MATOESIAN: Thank you, ma'am.

15 Are there any other questions or
16 comments?

17 (No response.)

18 HEARING OFFICER MATOESIAN: All right then. On
19 behalf of Renee Cipriano, the Director of the Illinois
20 EPA, the Agency itself, and myself, I thank you all for
21 coming and for your time. I adjourn this hearing. Thank
22 you.

* * *

23 (Which were all the proceedings had in the
24 above-entitled cause.)

4 I, JANICE H. HEINEMANN, CSR, RDR, CRR, do
5 hereby certify that I am a court reporter doing business
6 in the State of Illinois, that I reported in shorthand the
7 testimony given at the hearing of said cause, and that the
8 foregoing is a true and correct transcript of my shorthand
9 notes so taken as aforesaid.

12 Janice H. Heinemann CSR, RDR, CRR
License No 084-001391

24

